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ENVIRONMENTAL ASSESSMENT BOARD

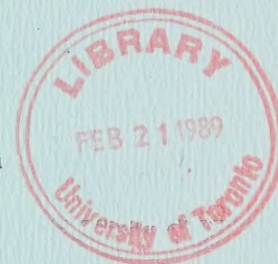
VOLUME: 70

DATE: Monday, February 13th, 1989

BEFORE: M.I. JEFFERY, Q.C., Chairman

E. MARTEL, Member

A. KOVEN, Member



FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

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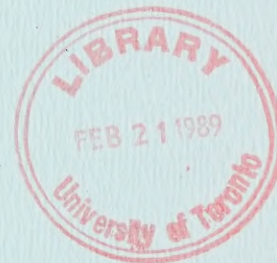
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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER of an Order-in-Council
(O.C. 2449/87) authorizing the
Environmental Assessment Board to
administer a funding program, in
connection with the environmental
assessment hearing with respect to the
Timber Management Class
Environmental Assessment, and to
distribute funds to qualified
participants.

Hearing held at the Ramada Prince Arthur
Hotel, 17 North Cumberland St., Thunder
Bay, Ontario, on Monday, February 13th,
1989, commencing at 1:00 p.m.

VOLUME 70

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member

A P P E A R A N C E S

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MS. Y. HERSCHER)	
MR. B. CAMPBELL)	MINISTRY OF ENVIRONMENT
MS. J. SEABORN)	
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MR. P.R. CASSIDY)	ASSOCIATION
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MR. P.D. McCUTCHEON	GEORGE NIXON

(iii)

APPEARANCES: (Cont'd)

MR. C. BRUNETTA

NORTHWESTERN ONTARIO
TOURISM ASSOCIATION

I N D E X O F P R O C E E D I N G S

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I N D E X O F E X H I B I T S

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406	Report of House of Commons Standing Committee on Environment and Forestry	11837
407	Copy of draft report.	11846
408	Photocopies of overheads used at workshop.	11858
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410	Ministry of Natural Resources Action Plan on Forest Management.	11926
411	Statement by Vincent Kerrio, Minister of Natural Resources to Standing Committee on Resources Development.	11927
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1 ---Upon commencing at 1:05 p.m.

2 THE CHAIRMAN: Thank you. Be seated,
3 please.

4 Very well, Mr. Armstrong.

5 MR. ARMSTRONG: Thank you, sir.

6 THE CHAIRMAN: You indicated at the end
7 of the last time we were here that you expected to be
8 finished today?

9 MR. ARMSTRONG: Yes, sir.

10 THE CHAIRMAN: The Board can sit today no
11 longer than six. However, we are prepared to sit all
12 afternoon with maybe very brief breaks, and we are
13 hoping that your cross-examination can be completed
14 today. That leaves us the better part of five hours
15 and we are into the fifth day.

16 So we hope that you will be able to
17 operate within those guidelines because we would like
18 tomorrow to be able to go on to the Ministry's case and
19 the re-examination by the Ministry of Natural Resources
20 and then be able to proceed with the next panel.

21 MR. ARMSTRONG: Very good.

22 THE CHAIRMAN: Thank you.

23 WILLIAM JOHN STRAIGHT,
24 R. DAVID SCOTT,
PETER J. McNAMEE, Resumed

25 MR. ARMSTRONG: Now, we left off on

1 Thursday, I had just introduced Exhibit 405 and I was
2 in the process of questioning Dr. McNamee and I will
3 pick up basically there.

4 CONTINUED CROSS-EXAMINATION BY MR. ARMSTRONG:

5 Q. But before I do, I want to address to
6 Mr. Straight, sir, whether or not you have read the
7 Report from the House of Commons Standing Committee,
8 Minutes of Proceedings and the evidence of the Standing
9 Committee on Environment and Forestry, a paper and part
10 of that says The Argument for Integrated Forest and
11 Wildlife Management in Canada?

12 MR. STRAIGHT: A. I can't recall
13 specifically whether I have read that specific document
14 or not. I would have to look at it. It may be that I
15 have seen parts of it, but I can't be certain.

16 Q. (handed)

17 A. No, sir, I have not seen that
18 document, not in this form anyway.

19 Q. Fine.

20 MR. ARMSTRONG: Mr. Chairman, the reason
21 that I asked Mr. Straight to take a look at that now is
22 that I will be asking him some questions about some
23 concepts within that and asking his opinion and if he
24 could have it now, then he would have some time to look
25 at it.

1 And my approach with it is is that either
2 it can be made as an exhibit - which I think I would
3 prefer - and he can have it to look at in its full
4 context or, in any case, I will be asking him about
5 those concepts.

6 So if he simply has it now, he can use
7 what break time we might have to...

8 THE CHAIRMAN: Well, he is not going to
9 get much of an opportunity. How big a document is it,
10 Mr. Straight?

11 MR. STRAIGHT: Twenty pages.

12 MR. ARMSTRONG: If I could trade with him
13 and give him this one. I have marked with green hatch
14 marks the particular concepts that I will be interested
15 in looking at with him. (handed)

16 The Brief to the Standing Committee which
17 is now Exhibit 405 was part of the same hearings that
18 Mr. Straight is now looking at a document from, so
19 there is some overlap as well.

20 THE CHAIRMAN: All right. Do you have
21 copies of that document for everybody?

22 MR. ARMSTRONG: Yes.

23 THE CHAIRMAN: We might as well admit
24 that document now. That will be Exhibit 406.

25 MR. ARMSTRONG: (handed)

1 THE CHAIRMAN: Thank you.

2 ---EXHIBIT NO. 406: Report of House of Commons
3 Standing Committee on
4 Environment and Forestry.

5 MR. ARMSTRONG: Q. Now, Doctor, you were
6 going to take some time on the weekend to look over
7 Exhibit 405?

8 DR. McNAMEE: A. Yes, I have.

9 Q. All right. And do you agree with the
10 view contained in Dr. Baskerville's paper to that
11 Standing Committee regarding the application of
12 adaptive management?

13 A. He describes two approaches to
14 resource management. One you might call a constraint
15 management in which the amounts of any -- of a
16 particular resource which may be produced is produced
17 by applying particular constraints on other resources.

18 And the approach to resource management
19 that he argues for in this brief you might call a
20 production-based approach which basically I suppose
21 define a set of the management actions which you
22 believe will achieve particular amounts of resources
23 over both time and space.

24 That latter approach is, I believe, a part
25 of what might be called the adaptive management
approach.

1 Q. Now, the production --

2 A. The adaptive management approach is
3 described in more depth in the document at the back of
4 my witness statement page 263.

5 I should also say that I tend to agree
6 with the idea of adaptive management and the approach
7 to which resource management -- to which groups or
8 agencies that are responsible for resource management
9 should aim for. I would also say that the two
10 approaches to management that Dr. Baskerville describes
11 in that brief both require the design and use of an
12 effects monitoring program.

13 Q. All right. So the production-based
14 approach that you have talked about is at the second of
15 the two approaches, is part of adaptive management as
16 you see it?

17 A. He would say that that's -- yes, I
18 see it in that a way. If an agency or group is going
19 to do adaptive management, they are going to have to do
20 that to take that approach he argues for in that brief.

21 Q. And the production-based approach
22 within itself, when you talk about the production,
23 leads us to the need for quantifiable goals that you
24 are producing for them?

25 A. Yes.

1 Q. All right.

2 A. Yes.

3 Q. Now, it is fair to say - and I
4 appreciate what you have just said - that even that
5 would require effects monitoring?

6 A. Yes.

7 Q. But it is another direction and you
8 would need to get into it and then have effects
9 monitoring as well?

10 A. I am not sure what you mean by that,
11 sir.

12 Q. Well, if you took that direction then
13 there would follow effects monitoring?

14 A. There would have to, yes.

15 Q. Yes. Well, I get back to my concern
16 of my earlier questions of you and ten years worth of
17 effects monitoring for the guidelines to see if they
18 are, in a sense, effective. I think that's what you
19 were telling us. Yes?

20 A. Yes, that seems to be about the
21 amount of time one would need.

22 Q. All right. And that's just effects
23 monitoring before going in the direction of the
24 production-base adaptive management?

25 A. No, I am sorry, I don't think that's

1 quite the case. I think that a monitoring program of
2 that scale is the kind of monitoring program one needs
3 to gain better understanding, such that the timber
4 management guidelines can be improved.

5 One would also have to ask the question:
6 What the scope and scale of an effects monitoring
7 program would have to be if the adaptive -- if resource
8 management was going to be done with the adaptive
9 management approach.

10 I rather suspect, although I am not
11 certain, that the scope and scale of that kind of
12 effects monitoring program would be about the very same
13 because we are still dealing with the same sets of
14 unknowns.

15 Q. All right. Now, I know you have told
16 us last time that there is no guarantees as to what you
17 are going to find out and what you may be able to do
18 with knowledge once you have assemble it over this
19 ten-year period.

20 What I want to know now - and this is a
21 slightly different question --

22 A. Mm-hmm.

23 Q. How will you know when enough is
24 known?

25 A. It is not my job to decide when

1 enough is known. I agree with you that the need exists
2 in any resource program or any effects monitoring
3 program of any kind to have rules by which you stop, by
4 which you say: Okay, enough is known, we now know
5 enough to be able to improve and update the guidelines,
6 but it is not up to me to say that.

7 MR. ARMSTRONG: All right. If I could
8 just have a second, please.

9 Q. To your knowledge have those rules or
10 an end point of this --

11 A. Sorry, sir?

12 Q. To your knowledge, have the rules for
13 that end point of monitoring been established?

14 A. I am not sure. I suspect we may have
15 to wait for Panel 16.

16 Q. Now, the approach to your work, as I
17 understand it, is based on the recognition of
18 uncertainty and you agree with that?

19 A. Yes, sir.

20 Q. All right. And as a matter of fact
21 you and your colleagues seem to ask to be guided by
22 this concept of expect the unexpected?

23 A. Yes.

24 Q. And your study for the MNR would be
25 no exception to that and by that I mean that your work

1 in this timber management decisions should acknowledge
2 these uncertainties in terms of the relationship
3 between timber management activities and non-timber
4 resources?

5 A. Would you go through that once more,
6 please? I didn't quite hear everything.

7 Q. Okay. I asked you if you wouldn't
8 conclude from your work that the timber management
9 decisions should acknowledge these uncertainties in
10 terms of the relationships between timber management
11 activities and non-timber resources?

12 A. I believe they should. I think it's
13 not for me to say as to whether in fact they are.

14 Q. And dealing with uncertainty, is it
15 sufficient to acknowledge uncertainty or should one
16 develop a strategy to deal with it?

17 A. Strategy is important.

18 Q. Now, Dr. Holling is referred to on
19 page 199 of the EA and it is my understanding that a
20 strategy for dealing with uncertainty that you often
21 use as is advocated by Dr. Holling's book is to set the
22 unknown in a context of a structured explicit framework
23 which represents what is known as the simulation model
24 and then to test the sensitivity of the system to
25 unexpected events; is that right?

1 A. That is one way in which that might
2 be done. It is important to keep in mind that there
3 have been a number of attempts in a number of other
4 resource agencies and groups to use the adaptive
5 management approach and there are a number of instances
6 where that has worked quite well; and there are a
7 number of instances where that has not worked all that
8 well either.

9 The actual -- it is extremely hard. It
10 is not very easy to implement an approach of that sort.

11 Q. Now, in your ESSA Report page 211,
12 Section 4.1.1, second paragraph. Page 211, 4.1.1,
13 second paragraph, do you have that?

14 A. Yes, sir.

15 Q. Now, this is where you are, in
16 essence, cataloguing timber management effects and
17 reference is made to the significance of impact and I
18 would like to know how you decide which impacts were
19 and were not significant?

20 A. That word significant was defined as
21 an effect or a predicted change on a resource value
22 that should be considered when making timber management
23 decisions.

24 That if the group felt that without any
25 of the timber management guidelines being put in place

1 the effect would be of such a scale and extent that a
2 group of people developing a timber management plan
3 would have to deal with that effect. That's how we I
4 think both defined and used that word, that term.

5 Q. Now, Doctor, Table 6 in your report -
6 and that's page 212 and it occupies 213 and 214 -
7 provides a summary of hypotheses evaluations; right?

8 A. Yes, it does.

9 Q. And as I mentioned before Section
10 4.1.1 in the text provides a simple accounting of the
11 effects relative to the guidelines?

12 A. Yes.

13 Q. And of the 36 effects, 10 were deemed
14 insignificant; 14 were significant; 12 were uncertain?

15 A. I believe that's right.

16 Q. Right. Now, I don't seem to see a
17 discussion of the implications of these findings to the
18 proposed Class EA. Instead now - see if I am right -
19 your conclusion is simply that, and this is from 215 of
20 your Report:

21 "These findings clearly point to the need
22 to experimentally resolve these major
23 uncertainties."

24 All right. Now, what I would like to know is: Do your
25 results have no other bearing on the decision that this

1 Board has to make than just pointing out that
2 uncertainty?

3 A. I cannot say whether those results
4 which you have read from Section 4.1.1 do or do not.

5 Q. All right.

6 A. They do indicate to me that from
7 simply looking at the extent of the current
8 understanding that exists about the effects of various
9 timber management actions, there is a need to reduce
10 and resolve some of those unknowns.

11 Q. Now, column 7 of your Table 6 is
12 entitled: stringent; am I right?

13 A. Yes.

14 Q. I don't see any reference to this
15 term in the text and I would like to know why not,
16 please?

17 A. That's an error in Table 6. One
18 should actually read that as how effective the timber
19 management guidelines would be in being able to protect
20 for or deal with that effect.

21 Q. Could you tell me, please, how this
22 error crept in?

23 A. I'm assuming it was an oversight,
24 sir.

25 Q. Doctor, there was a draft of your

1 final report?

2 A. Yes, there was.

3 Q. And I would like to show you a copy
4 of portions of that.

5 A. There were actually two drafts.
6 Okay, there is a date there.

7 Q. That's one of them?

8 A. Yes, it is.

9 MR. ARMSTRONG: I believe, Mr. Chairman,
10 I would like to make that an exhibit.

11 THE CHAIRMAN: Exhibit 407.

12 ---EXHIBIT NO. 407: Copy of draft report.

13 DR. McNAMEE: This was a very, very early
14 draft before -- which took the words and the text that
15 had been written at the third workshop and this draft
16 was sent to all who had been -- all of the experts who
17 had been at the workshop.

18 MR. ARMSTRONG: Q. You are the senior
19 author of this draft?

20 A. Yes, I am, I believe.

21 Q. Now, if I can summarize - and you may
22 want to take a minute and that's fair enough - but
23 Section 1.1 is completely rewritten from draft to
24 final; Section 1.3 is deleted in its entirety and
25 remaining sections of Chapter 1 are renumbered; Section

1 4.1.1 is rewritten in its entirety; Sections 4.1.2 and
2 4.1.3 have been deleted in their entirety?

3 A. That's right.

4 Q. But otherwise, the main substance of
5 the report is completely unchanged from the draft form?

6 A. I am not sure. I mean, I have not
7 seen this draft for almost two years now so I have no
8 idea what has changed.

9 Q. But you will agree with me that a
10 significant change is in the situation of the
11 definitions of necessity, sufficiency and stringency at
12 1.3 which now no longer appear anywhere in the final
13 report?

14 A. That's right.

15 Q. And yet we still have sufficiency in
16 columns -- rather stringency?

17 A. Stringency.

18 Q. In column 7 of your Table 6?

19 A. That's right.

20 Q. And when you were explaining how the
21 error crept in, you told me this was a mere oversight?

22 A. Yes, it was.

23 Q. It strikes me as more than an
24 oversight, Doctor; wouldn't you agree?

25 A. No, I wouldn't.

1 Q. Now, I am not in any way, shape or
2 form intending to cast an aspersion or impune your
3 integrity, it is just that this process has gone on for
4 a long time, I was here from Wednesday and although I
5 see a Bible on the desk, I didn't see anybody sworn.

6 I presume you have been sworn?

7 A. Yes, I have.

8 THE CHAIRMAN: What are you getting at
9 Mr. Armstrong.

10 MR. ARMSTRONG: Just some tough questions
11 that I wanted to be sure of -- where we were coming
12 from and wanted to remind the witness of that.

13 THE CHAIRMAN: I am quite sure he is
14 awarem he is under oath.

15 MR. ARMSTRONG: Thank you.

16 Q. Were you advised by MNR staff or
17 their advisors to amend your report in respect to these
18 sections?

19 DR. McNAMEE: A. I cannot remember how
20 we were advised, whether it was from MNR staff or some
21 of the other experts that we had there.

22 As I said, this draft was sent out to all
23 of the people who had been involved in the project from
24 the very start and we asked them to review as much of
25 that draft report as they were able to. I cannot

1 recall who said or who felt that certain parts of the
2 text had to be altered and changed, I have no idea.

3 Q. Notwithstanding that they are quite
4 major changes, quite significant deletions?

5 A. That's right.

6 Q. It doesn't help your recollection?

7 A. Not at all, sir.

8 Q. Would it be true to say that of the
9 other groups present you had the most contact
10 throughout with MNR staff?

11 A. Throughout what, sir? I cannot
12 remember how many people responded back to us with
13 changes that they wanted to see made and I can't
14 remember what fraction of them were MNR and which
15 fraction were not MNR.

16 Q. You were hired by the MNR?

17 A. Yes, we were.

18 THE CHAIRMAN: If somebody wanted a
19 change, would you automatically make the change?

20 DR. McNAMEE: By and large, yes, we do.

21 THE CHAIRMAN: So you don't apply your
22 own judgment as to the efficacy of the change?

23 DR. McNAMEE: We do -- we don't have any
24 hard and fast rules that say, for example, we need to
25 have 8 people saying that they want a change.

1 I mean, we try all the way through to
2 have the report reflect the understanding of the
3 people, but we don't have any hard and fast rules about
4 which changes we make and which changes we don't make
5 and so on.

6 THE CHAIRMAN: Well, if there is
7 something in it that would be embarrassing to a
8 particular party, particular participant and they
9 objected to that, you are saying that you would take it
10 out, notwithstanding that was the feeling at the time
11 it was put into the report?

12 DR. McNAMEE: Once more, sir, I didn't
13 quite understand the question.

14 THE CHAIRMAN: If there was something in
15 that that proved to be embarrassing in the draft to a
16 particular participant and that participant objected
17 when you sent out the draft, you would change it
18 notwithstanding that it might have been your feeling
19 when you wrote it that that should have gone in?

20 DR. McNAMEE: I am not sure. We don't
21 have any hard and fast rules of saying what do we add
22 or what do we not add. I am not sure.

23 THE CHAIRMAN: Okay. Excuse me, Mr.
24 Armstrong, I just want to get at one more question.
25 When you wrote the draft--

1 DR. McNAMEE: Yes.

2 THE CHAIRMAN: --originally, was it your
3 feeling that what went into the draft accurately
4 reflected the feeling of the participants?

5 DR. McNAMEE: Most of the report has
6 been -- we did not write at all, it was the people who
7 were involved in the workshops. We wrote Sections 1, 2
8 and 4. It is my belief that what -- well, we always
9 try to write what we feel reflects the group's interest
10 or group's understanding.

11 MR. ARMSTRONG: Q. But this -- I
12 appreciate that you have said most of the report we did
13 not write at all - and I can see that, I can accept
14 that - but I did earlier ask you what sections you took
15 responsibility for.

16 A. Yes, sir.

17 Q. And this is one of them?

18 A. Yes, it is.

19 Q. Now, further to the Chairman's
20 questions about what group might be particularly
21 interested in what section or be embarrassed, Section
22 1.1 in the draft, paragraph 2 reads:

23 "As part of the Class Environmental
24 Assessment for Timber Management, the
25 Ontario Ministry of Natural Resources is

1 committed to develop a program of
2 environmental monitoring to assess the
3 effectiveness of its timber management
4 guidelines in protecting other resource
5 values in the conduct of timber
6 management activities ."

7 And that now does not appear in the final form; that's
8 right?

9 A. That's right.

10 Q. And I presume the only participant
11 interested in whether that is deleted or otherwise
12 would be the only participant named, being the Ministry
13 of Natural Resources?

14 A. That may be.

15 MR. ARMSTRONG: May I just have a second,
16 please.

17 THE CHAIRMAN: Well, Dr. McNamee, how
18 would you ever arrive at a conclusion that the Ministry
19 is committed to develop a program of environmental
20 monitoring, et cetera, to put in that draft paragraph
21 if you didn't believe that to be the case based on
22 the--

23 DR. McNAMEE: That's true, sir.

24 THE CHAIRMAN: --results of the workshop?

25 DR. McNAMEE: Yes, that's true.

1 THE CHAIRMAN: I mean, you are making a
2 statement as to your belief as to what occurred.

3 DR. McNAMEE: The sense that our team had
4 at the end of the third workshop is that all who were
5 there, and that includes MNR staff, believed that an
6 effects monitoring program of the sort that they had
7 spent a long week working through was one that had to
8 be done.

9 THE CHAIRMAN: Okay. Now, how do you get
10 from that position, the draft in April, to the final
11 report without that being in it at all?

12 DR. McNAMEE: As I say, in the review of
13 that draft we may have had -- well, we did have a
14 number of people who reviewed that draft who said, I
15 suppose, we would rather that not be in there.

16 THE CHAIRMAN: Okay. So you are
17 absolutely saying to the Board that you would not have
18 taken it out on your own volition?

19 DR. McNAMEE: No, because it was our
20 sense that at the end of that third workshop that MNR
21 staff and the other experts who were there did want a
22 program of that sort.

23 MR. MARTEL: Who asked you to take it
24 out?

25 DR. McNAMEE: I can't remember, sir.

1 THE CHAIRMAN: Mr. Straight, were you at
2 the workshop?

3 MR. STRAIGHT: Yes, I was.

4 THE CHAIRMAN: Did you request that this
5 be taken out?

6 MR. STRAIGHT: I can't honestly recall,
7 sir, whether I requested that to be taken out or not.
8 All I could do would be to speculate.

9 THE CHAIRMAN: Could you speculate?

10 MR. STRAIGHT: I was just quickly trying
11 to see what the relationships were to that particular
12 section.

13 I mean, certainly there is reference to
14 the Class Environmental Assessment in the introduction
15 and at the bottom of the first page of the executive
16 summary, the introduction deals with:

17 "The challenge is, therefore, to increase
18 the understanding of timber management
19 effects and the effectiveness of the
20 resource protection guidelines so that
21 guidelines can be modified and improved.
22 The Class Environmental Assessment for
23 Timber Management on Crown Lands in
24 Ontario and the audit of management
25 of the Crown forests of Ontario also

1 argue for this need."

2 So the reference is still there to pursue monitoring in
3 the sense that the guidelines -- checking the
4 effectiveness of the guidelines so that they can be
5 modified and approved without in the text, as I can
6 recall the statement in the earlier draft if it was
7 read, without there being reference to a specific
8 commitment.

9 So my sense would be that that -- the
10 tie-in to the Class Environmental Assessment would be
11 covered by that particular content of that particular
12 paragraph.

13 What MNR tends to do as a result of this
14 report and subsequent work in terms of developing an
15 effects monitoring program will be presented to this
16 Board to see what we actually did with it anyway.

17 But there certainly was no conscious
18 attempt to change the context of the text, in fact the
19 ESSA people were always extremely conscious of the fact
20 that changes should be done -- any changes should be
21 done so that the entire group that worked with it were
22 aware of what was in the document itself, and I can
23 recall reference to them expressing those concerns even
24 at the time of reviews.

25 MR. ARMSTRONG: Well, at my back I always

1 hear: Time is a winged chariot hurrying near, and if I
2 could move on to the next question.

3 Q. Section - this is to Dr. McNamee -
4 Section 1.3 on page 2. Now, I have talked about it;
5 that is the definitions of necessity, sufficiency,
6 stringency and they are removed completely.

7 And why was that done?

8 DR. McNAMEE: A. As I said, sir, we made
9 the changes to the draft about a year and a half ago
10 and I cannot recall the reasons why. I have a sense
11 that it was because - and, again, I am not certain -
12 but I have a sense it was because not all of the
13 sub-groups that dealt with the effects of various
14 timber management actions were able to group or to put
15 the existing timber management guidelines into one of
16 those three groups.

17 I have a sense that that was the reason
18 why. Some groups were able to do that, some groups
19 were not. I suspect that that might be the reason why
20 that is out of there, but I am not certain.

21 Q. But in your table you cover all of
22 the things that are taken out in the text?

23 A. In what way?

24 Q. All right. Table 5, 206 in your
25 draft?

1 A. Table 5 in the draft?

2 Q. Yes.

3 A. Okay.

4 Q. Page 206.

5 A. That's right. And, as I am saying,
6 in the review of the draft I suspect that some of the
7 people who were involved in the workshops believed or
8 since -- or in the time since the workshop was held,
9 they believe that they were not able to, or that what
10 was contained in the draft did not accurately reflect
11 that.

12 Q. But aren't they exactly the same:
13 Columns 3, 4, 5, 6 and 7 in Table 6 of your final
14 report match up exactly to what I will call Columns 2,
15 3, 4, 5 and 6 in your draft?

16 A. That may be the case. For whatever
17 reason, some of those people who reviewed the draft
18 felt it was not the right way - let me see if I can
19 express this properly - to describe their best
20 understanding as to what the effects of the timber
21 management guidelines would be.

22 Q. Well, my point is this: We have a
23 text and a table in the draft and then in the final we
24 have got the same table but no text, and doesn't that
25 make it difficult to understand the final form?

1 And put it another way: Wouldn't it be
2 easier if it had the text just like the draft did?

3 A. It might, it might not. I am not
4 sure.

5 Q. Now, were the participants at the
6 workshop led to believe that evaluation criteria would
7 be applied to the resource protection guidelines as
8 part of your contract?

9 A. Evaluation criteria such as...?

10 Q. Necessity, sufficiency and stringency
11 to use the terms of the text of your draft.

12 A. I believe at the start of the third
13 workshop we told them that that is how we were going to
14 try to go; we were going to try and get to that point
15 if we were able to.

16 Q. And I am showing you photocopy of a
17 couple of overheads from the workshop. (handed) You
18 recognize those?

19 A. That's right.

20 MR. ARMSTRONG: And I ask that that be --
21 there are two pages, I ask to be the exhibit next in
22 order.

23 THE CHAIRMAN: Exhibit 408.

24 ---EXHIBIT NO. 408: Photocopies of overheads used at
25 workshop.

1 MR. ARMSTRONG: Q. All right. Now, the
2 first is a graphic presentation of 1.3 of your draft;
3 am I right?

4 DR. McNAMEE: A. That's right. I am
5 not --I believe this is one other overhead that formed
6 a draft set that we gave to MNR immediately after that
7 workshop. I am not sure that it was used. It may have
8 been used at the workshop itself, but I am not certain.

9 Q. You gave it only to MNR?

10 A. Sorry?

11 Q. You gave it only to MNR?

12 A. No, as I described on Thursday
13 afternoon, we were asked after the workshops were over
14 to prepare a set of overheads that was to be used by
15 MNR.

16 Q. And the second part of this overhead
17 does deal with those three--

18 A. Yes.

19 Q. --types of analysis under the heading
20 evaluation?

21 A. Yes, it does.

22 THE CHAIRMAN: Why would you prepare a
23 set of overheads for MNR after the workshops if it were
24 not to be based on the final report?

25 DR. McNAMEE: We were asked by MNR to

1 start preparing the overheads while the draft was still
2 out. We were asked in early May of that year.

3 MR. STRAIGHT: Perhaps I can help a
4 little bit here. We wanted basically a set of
5 overheads which summarized the process and provided a
6 summary of results so that we could use it both
7 internally and in the future, externally to the
8 stakeholder groups that participated and other
9 stakeholder groups simply as a mechanism to explain the
10 process that we went through and the results.

11 As you can appreciate, there was a
12 reasonable large effort by a lot of people that went
13 into this using a technique which is not all of that
14 common, as a result, which can be very difficult to
15 explain and understand and so we wanted to make use of
16 ESSA's expertise in that particular fashion to help us.
17 And it was primarily for a communication vehicle.

18 I have used a set of the generalized
19 overviews or overheads to this point in time, primarily
20 in making presentations within our own Ministry to
21 inform people of the process we went through and you
22 saw a few of those overheads in terms of Dr. McNamee's
23 presentation in evidence-in-chief as well. So that was
24 the primary purpose.

25 THE CHAIRMAN: Nobody is arguing, Mr.

1 Straight, with the purpose; it is just that the
2 overheads that were produced aren't reflective of what
3 ended up in the final report necessarily.

4 DR. McNAMEE: Well, this is a draft and
5 this kind of evaluation of the guidelines is not
6 described in the final report either and it is not part
7 of the overhead.

8 MR. STRAIGHT: That issue of necessity,
9 sufficiency and stringency, for example, is something
10 that you will see referred to as well in a document
11 that was submitted earlier in cross-examination and is
12 part of evidence Panel 16's material and it is
13 important to consider the issue of sufficiency and
14 stringency as well in designing an effects monitoring
15 program from the context that we could say at the
16 outside, if we want to test whether the guidelines
17 work, we could simply impose the guidelines, go in and
18 ask the question: Was any habitat, for example,
19 impairment or effect noted, period, and if we saw none
20 we could simply stop at that and say: We have met the
21 intent of testing.

22 We also had to explore the question in
23 designing the effects monitoring program whether or not
24 the guidelines provided the appropriate degree of
25 stringency.

1 If you take lakeshore reserves, for
2 example, we could ask ourselves the question: Do we
3 really need to employ a 90 metre reserve, for example,
4 when a 30 metre may have worked.

5 MR. ARMSTRONG: Mr. Chairman, if I
6 might...

7 MR. STRAIGHT: So that...

8 MR. ARMSTRONG: I will be pleased that
9 this is dealt with at a later panel in the detail that
10 Mr. Straight is now launching into. I would like to
11 confine it to the methodology at the workshop.

12 THE CHAIRMAN: Okay.

13 MR. ARMSTRONG: Q. Now, Doctor, I know
14 we discussed this a little bit, but isn't it in fact
15 impossible to interpret Table 6 or at least Column 7 of
16 your final report without Section 1.3 and the
17 definition of stringency?

18 DR. McNAMEE: A. No, it is not.

19 Q. Is that because it shouldn't be
20 stringency at all, it should be some other heading;
21 that is what you have told me?

22 Well, let me put it another way if you
23 are having difficulty. If I don't know what stringency
24 is - and I don't from its absence in the text - when I
25 see it on the table how am I supposed to know what that

1 is all about?

2 A. I think the key element of Table 6 is
3 what is stated on the far right-hand side in terms of
4 what kind of monitoring work needs to be done, the
5 oversight...

6 Q. Am I supposed to ignore the rest?

7 A. The oversight that we made in not
8 changing that word, I don't think deters from the
9 results of the work. All of the results that are
10 described in table -- in summary form in Table 6 are
11 described in much more depth in Section 3 and I
12 maintain that it is possible by, examining the report
13 from front to back, to get a clear idea of what the
14 unknowns are and what kind of effects monitoring work
15 needs to be done to help resolve those unknowns.

16 Q. All right. Now, Doctor, the first
17 criterion as described on page 2 of your draft report
18 suggests that all significant effects should be
19 addressed via a guideline.

20 A. Whereabouts, sir?

21 Q. All right. Well, necessity --

22 A. Yes.

23 Q. "A guideline is necessary for a
24 timber management effect if the evidence
25 for that effect indicates it is

1 significant. A guideline is not
2 necessary for an effect if the evidence
3 for that effect indicates it is not
4 significant."

5 A. That's right.

6 Q. So that directs us to guidelines as
7 the vehicle to use?

8 A. That's right.

9 Q. Now, what I am concerned about in
10 that presumption that guidelines are the only way to
11 deal with significant effects.

12 Did you consider as part of your study
13 the possibility of alternative techniques, like habitat
14 supply analysis approach advocated by Dr. Baskerville?

15 A. No, sir, we did not. It is important
16 to realize that the scope of the work, we were to look
17 at the three sets of guidelines.

18 I would agree that there are other ways
19 to deal with particular effects of various timber
20 management actions. One does not need guide -- one
21 does not necessarily have to have a guidelines.

22 Q. Now, stringency, as I think I
23 understand it from you, indeed as it is defined--

24 A. Speaking of the draft?

25 Q. Yes. --reflects the acceptability

1 of the environmental impacts of timber management after
2 having been mitigated by the guidelines or, as you have
3 stated, and as is shown graphically in your overhead,
4 whether the mitigation of effects by guidelines is just
5 sufficient; that is the moose. Do you see the little
6 cartoon of the moose?

7 A. Yes, I do.

8 Q. Then we have got: Just right.

9 A. That's right.

10 Q. All right. And that's the way you
11 would put forward that concept?

12 A. That's the way it was defined on page
13 3 of the draft.

14 Q. Okay. Now, page 205 of your draft
15 and page 211 of your final report, Section 4.1.1 has
16 both been renamed and totally rewritten; correct?

17 A. It has been renamed. Let me have a
18 quick look to see whether all of the main points are
19 still there.

20 Q. Sure. Yes, certainly.

21 A. It has also been rewritten to a
22 certain extent, although a lot of the ideas that exist
23 in the draft also exist in the final report as well.

24 Q. Okay. Dealing with the final report,
25 the last section in Section 4.1.1 on page...?

1 A. 215.

2 Q. Sorry, the last -- let me get myself
3 sorted out with your -- oh, here we are, 208 of your
4 draft, I am sorry. 208 of the draft, 4.1.1, the last
5 sentence.

6 "Uncertainty about the significance of
7 these effects in the absence of
8 guidelines may be taken to indicate
9 uncertainty about the necessity of these
10 guidelines."

11 A. Yes.

12 Q. Now, does your work therefore reveal
13 that there is a question about the need for guidelines
14 at all?

15 A. If you want to look at this draft it
16 says that when looking at those five, I believe,
17 effects just above that sentence, or those effects
18 listed above the sentence, the fact that the groups
19 concluded that there was uncertainty related to those
20 effects, could be taken to mean that it was uncertain
21 whether there had to be guidelines to deal with each of
22 those effects.

23 Q. All right. Section 4.1.2 deals with
24 your evaluation of the guidelines with respect to
25 sufficiency, now again, that's on page 208. And the

1 last sentence dealing with that category shows up on
2 page 209:

3 "Uncertainty about the significance of
4 these effects may be taken to indicate
5 uncertainty about the sufficiency of the
6 guidelines for the protection of fish and
7 fish habitat."

8 And so does your work not point out that there was a
9 question about the sufficiency of guidelines for the
10 protection of fish and fish habitat?

11 A. That sentence points out that one may
12 take the fact that the experts at the workshop felt
13 that the above effects were uncertain.

14 One could take that to mean that it was
15 equally uncertain whether the Timber Management
16 Guidelines for the Protection of Fish Habitat were
17 uncertain as well.

18 Q. Now, the last Section 4.1.3 deals
19 with stringency. We have discussed this. What the
20 section says:

21 "The level of stringency of the timber
22 management guidelines intended to protect
23 or mitigate against effects assessed as
24 significant was uncertain in every case."

25 And we see that on the tables.

1 "In other words, it is not known whether
2 the timber manager guidelines offer too
3 little resource protection or mitigation
4 of timber management effects, or if the
5 same level of resource protection or
6 mitigation of timber management effects
7 could be achieved with less rigorous
8 guidelines."

9 So did your work then not point out that the guidelines
10 might overprotect, underprotect or, in any case, you
11 can't say which?

12 A. By and large I believe that's true
13 and -- yes.

14 Q. But guidelines was something that the
15 Ministry of Natural Resources was committed to; and we
16 read that.

17 A. They asked -- yes, that's right.

18 Q. Now, we have heard that a great deal
19 of time was spent on this workshopping and report and I
20 have the statistics, three person years?

21 A. That's true, sir.

22 Q. And examining the three provincial
23 resource guidelines?

24 A. Yes.

25 Q. But there are no modifications or

1 revisions made to them?

2 A. Not as the result of our work.

3 Q. Right. And it is concluded that
4 nothing can be concluded, basically?

5 A. No, I wouldn't say that.

6 Q. Well, in every case, under what I
7 would suggest is the relevant column, you have got
8 uncertain?

9 A. Which one, which entry? The group
10 did conclude, for example...

11 Q. I'm sorry, but you asked the question
12 which one and stringency is the one.

13 A. Right. The group did conclude that,
14 for example, that there were a number of effects for
15 which effects monitoring need not be -- there were some
16 effects which the group say would not -- would probably
17 not be significant ones.

18 The group did conclude that there were a
19 number of -- that in order to resolve some of these
20 unknowns, that it was -- that these are some of the
21 ways in which you might be able to resolve those
22 unknowns.

23 So I wouldn't agree at all with that
24 statement of yours.

25 MR. ARMSTRONG: If I can just have a

1 second, please.

2 Q. Well, I am still driven back to the
3 same place and; that is, you are unable to conclude
4 anything with regard to stringency and that's why you
5 put in uncertain?

6 DR. McNAMEE: A. The group that we
7 had -- of experts that we had at the workshop said for
8 every -- that there was not complete certainty as to
9 how effective the timber management guidelines would
10 be.

11 Q. And the method of your
12 decision-making that the group came to conclusions, you
13 have told us, is by consensus and no party was simply
14 overridden and the Ministry of Natural Resources was
15 one of those parties coming to the consensus; right?

16 A. That is one of the ways, yes.

17 Q. Is it unreasonable of a person
18 looking in on this work to then have less than perfect
19 confidence in the guidelines and stringency of the
20 guidelines?

21 A. The word stringency -- okay. The
22 results of the work indicate to me as a -- that the
23 effectiveness of the guidelines in being able to deal
24 with those timber management effects from a scientific
25 point of view, is uncertain and uncertain enough that

1 an effects monitoring program needs to be carried out.

2 I maintain that those conclusions would
3 hold irrespective of what type of resource management
4 was being used as well.

5 Q. But for our purposes, if I understand
6 the longevity of the effects monitoring program and the
7 overall proposal, the guideline method will be
8 systematized, if you will, into the EA and for ever -
9 almost for ever - part of it, while we still have to
10 categorize their effectiveness as uncertain?

11 A. The big source of the uncertainty
12 that was raised and revealed in this effort was in the
13 nature and extent of the cause/effect relationships
14 between the various timber management actions and the
15 resource values.

16 In all of the written text that has been
17 entered into the record that describes the adaptive
18 management approach, all of that text argues just as --
19 all of that text argues that adaptive management be
20 based on the best understanding of what those
21 relationships are and that an effects monitoring
22 program is a key part of adaptive management as well.

23 I think it is obvious that whichever
24 management approach you take, there are still unknowns
25 about what the effects of timber management actions are

1 and that an effects monitoring program is the way to
2 help MNR and others better understand those effects.

3 Q. All right. There is another
4 conclusion in your report that I would like to touch on
5 and this is in the final report, page 216. Up near the
6 top of that page you see paragraph numbered 1, 2, 3 and
7 then you get into a large paragraph?

8 A. Yes.

9 Q. And I am going to read from it.

10 "To say that the guidelines are designed
11 to protect the resource value; i.e., the
12 population from timber management
13 activities implies that the relationship
14 between habitat and levels of the
15 different resource values are known."

16 Now, first of all, if you would help me out, should
17 that be is known so that the verb--

18 A. Yes, sir.

19 Q. --agreed with the relationship?

20 A. One more oversight.

21 Q. No, it is just that some of these are
22 pretty heavy concepts for me and any the area where I
23 get help that's fine.

24 Could you explain what is meant by this
25 statement?

1 A. That most of the timber management
2 guidelines that were in place at the time this project
3 was done were designed to protect or to deal with
4 effects of timber management actions on habitat.

5 The people and the experts who were
6 involved in all of the workshops and so on, said that
7 one has to, in the end, be able to understand and
8 predict what the effects of timber management actions
9 are on the resource values, okay. Therefore, one must
10 be able to -- if one sees changes in the amounts of
11 habitats, be able to say what that means in terms of
12 amounts of the resource value itself.

13 That in the end one has to make that last
14 step.

15 Q. All right. Then would you agree with
16 me that it's basically the same conclusion that Dr.
17 Baskerville makes in the paper that you have cited in
18 your witness statement?

19 A. Yes, absolutely.

20 Q. Page 366 at the bottom, if I could
21 just review that with you.

22 "There is one further point on management
23 habitat for quality..."

24 A. Where are you, sir?

25 Q. The very bottom of the second column?

1 A. Yes, okay.

2 Q. "...that I believe has resulted in
3 habitat plans not being taken seriously
4 in the management decision-making
5 process. The relationship between target
6 populations and the specification of
7 habitat types and geographic pattern
8 should be stated quantitatively. It will
9 continue to prove difficult, if not
10 impossible, to have habitat enter the
11 forest management decision process if the
12 goal is simply to make better habitat.
13 This sort of reasoning says that if you
14 take this action, the habitat will be
15 better and, having taken the action then,
16 by definition, the habitat is better.
17 Decision-makers do not like such logical
18 merry-go-rounds, however, I do believe
19 that decision-makers will consider
20 habitat measures that relate to
21 measurable population goals."

22 And that you would agree with is the same concept that
23 you were talking about?

24 A. Yes. I would also again add that:
25 Do not underestimate -- that it is very important that

1 people do not underestimate the size of that job. I
2 agree that that job needs to be done; I am also saying
3 don't underestimate the actual amount of work that is
4 involved in doing that.

5 Q. Well, let me bounce these two
6 examples, I suppose, off of you just to make sure I
7 understand so I know what I am doing.

8 But if you manage timber and, say, you
9 take "x" volume of timber and, at the same time, the
10 timber management plan is supposed to create some
11 better habitat. The some better habitat is a
12 qualitative directive; right?

13 A. If it is written or it is understood
14 as that, yes.

15 Q. All right. But if you were to manage
16 timber under the directive that says: Take "x" volume
17 of timber and leave or create habitat for 500 moose at
18 the same time, you have got two quantitative functions
19 going on at once?

20 A. That's right.

21 Q. And if you could start from those two
22 quantitative functions, planners would be driven by
23 different motives, if you will, and think in different
24 ways than they do now?

25 A. I wouldn't state those two in exactly

1 that way. I would say we want, on this given area of
2 land, to make or produce "x" amount of wood and "x"
3 number of moose.

4 Q. Well, you would agree it makes it
5 difficult for somebody like Mr. Scott if he gets
6 directives to take out "x" amount of timber and create
7 some good habitat; he is kind of left with saying:
8 Well, what are you talking about? You give me some
9 directions, get me some wood and get me some moose,
10 then he has something he can get his teeth into; isn't
11 that right?

12 A. I do not wish to underestimate his
13 skills at being able to deal with issues of that sort.

14 Q. Well, neither do I and I am not, and
15 I am most impressed with his abilities, but it doesn't
16 matter who you are dealing with, if you don't tell them
17 where they are supposed to go, they have got a pretty
18 difficult time getting there; isn't that true?

19 A. In terms of what?

20 Q. Dealing philosophically, in terms of
21 anything; if you don't have a destination, how can you
22 claim to have arrived at it?

23 A. Yes, that's right.

24 THE CHAIRMAN: Mr. Armstrong, can we find
25 a place to have a convenient break?

1 MR. ARMSTRONG: We may be at it. I am
2 about to shift ground and ask the Doctor to give me his
3 opinion on some concepts and it doesn't necessarily
4 following on just what we've done.

5 THE CHAIRMAN: Okay. We will break for
6 15 minutes.

7 Thank you.

8 ---Recess taken at 2:30 p.m.

9 ---Upon resuming at 2:50 p.m.

10 THE CHAIRMAN: Thank you. Be seated,
11 please.

12 MR. ARMSTRONG: Q. Now, Doctor, before I
13 finish my question of you, there are some points I
14 would like to touch on with respect to the Baskerville
15 paper that you have cited in your witness statement.

16 And I think we are in agreement on quite
17 a bit of this and we may be able to go through it
18 fairly quickly.

19 The paper deals with adaptive management
20 and specifically the requirements to put this concept
21 into practice in a timber management plan; correct?

22 DR. McNAMEE: A. My understanding is
23 that it outlines a series of steps which describe what
24 adaptive management is.

25 Q. Now, a number of points that he

1 raises I discussed with Mr. Scott from the forester's
2 point of view, but I would like to tap into your
3 training and expertise in the adaptive management
4 field. I would like to get your opinion on some other
5 points.

6 He states on page 363, that's the first
7 page of the article:

8 "By its nature adaptive management
9 requires quantitatively explicit
10 hypotheses about system, function and
11 structure."

12 Can you find that?

13 A. Yes.

14 Q. And you agree with that?

15 A. Yes.

16 Q. And you would agree, therefore, that
17 Dr. Baskerville does seem to emphasize the need to be
18 quantitative?

19 A. As much as possible.

20 Q. He also makes a strong case for
21 defining explicit measurable targets and to relate
22 these targets to specific cause/effect relations;
23 right?

24 A. Where are you, sir?

25 Q. Well, 363, the first two steps?

1 A. Step 1 and 2, yes.

2 Q. Yes?

3 A. Yes, I would agree.

4 Q. Right. Now, Doctor, I am going to
5 show you a couple of overheads from the workshop. Do
6 you recognize those? (Handed)

7 A. Yes.

8 MR. ARMSTRONG: I would ask that that be
9 the next exhibit in order.

10 THE CHAIRMAN: Very well. Exhibit 409.

11 ---EXHIBIT NO. 409: Overheads from workshop.

12 MR. ARMSTRONG: Q. Now, you would agree
13 with me that the first page is intended to show a
14 conceptualization of a complex cause/effect system?

15 DR. McNAMEE: A. Yes.

16 Q. And you would agree with me that the
17 second overhead is intended to convey the impression
18 that the simulation model that I have asked you about
19 this morning is a system forecasting tool?

20 A. The one which was built in the
21 project we did?

22 Q. Yes?

23 A. No.

24 Q. All right.

25 A. That was not what it was to be used

1 for.

2 Q. Well, I don't want for us to haggle
3 again about the computer tape and where it is and so
4 on. But this overhead, isn't that what it was meant to
5 show, that your model here in the middle --

6 A. It was meant to give - this was used
7 very early on in the project to give the people at the
8 workshop some ideas as to the kinds of model we were
9 going to build; i.e., that it was not going to optimize
10 anything, make resource tradeoffs of any sort, but we
11 are going to try to build a model that would compute
12 the effects of various actions over both time and
13 space.

14 Q. Okay, thank you. Now, in your
15 witness statement page 77, paragraph 17(b): --

16 A. Yes.

17 Q. "The methodology may be used as a
18 first step in implementing adaptive
19 management."

20 A. That's right.

21 Q. Could you clarify what you mean by
22 this statement, please?

23 A. That if one were to implement the
24 adaptive management approach, that the workshops
25 primarily the first two workshops -- excuse me, the

1 first two of the three workshops that formed the basis
2 for the effects monitoring program, would be two of the
3 first sorts of meetings or workshops that one would
4 actually do, but that - okay, that is what that
5 statement means.

6 However, as I have said earlier, that
7 there would have to be a lot more.

8 Q. Now, integral to Dr. Baskerville's
9 adaptive management proposal is the prediction or
10 forecast of consequences of certain actions. In other
11 words, you can only learn by stating explicitly what
12 you are expecting to happen and seeing if it happens.

13 And he says on page 363 of your witness
14 statement - and I am sorry to keep bouncing you back
15 like that.

16 A. That's fine.

17 Q. That is just the way it has to go -
18 point 7, second column.

19 A. Yes.

20 Q. "Based on comparisons of the
21 forecasts with actual system performance
22 adaptations are designed."

23 Do you agree with that proposal?

24 A. I would agree that that is an
25 important step.

1 Q. It strikes me, as I remember back to
2 my general science programs that I failed in first year
3 university, that what he is talking about is the basic
4 scientific method there; isn't it?

5 A. Yes.

6 Q. So what explicit quantitative
7 predictions or forecasts did your work result in that
8 your effects monitoring program will be testing to see
9 if your hypotheses are incorrect?

10 A. In answering that question I am going
11 to bounce ahead a bit to, I believe, certain items that
12 will be discussed in evidence Panel 16.

13 The workshops and so on and the effects
14 monitoring design project that we ran and which you
15 have heard about in evidence Panel 8 was designed to
16 basically (a) scope out which effects and which parts
17 of the timber management guidelines need to be looked
18 at in an effects monitoring program and if you were to
19 undertake an effects monitoring program, what is the
20 sort of -- what sort of effects monitoring program --
21 what sort of effects monitoring would you do.

22 I believe that the obvious next step is
23 to get a more explicit statement as to what the extent
24 and magnitude of the effect that you expect to see is,
25 and I am not completely certain, but I believe that the

1 start-up of the effects monitoring program involves a
2 more detailed look at what -- at things like how large
3 and how extensive the effects monitoring program needs
4 to be in order to detect or predict the scale of the
5 effects that MNR expects to see.

6 Q. All right. Now, what I was having
7 difficulty with was basically the methodology of this
8 effects monitoring that you were getting to.

9 A. For Panel 16?

10 Q. No, no --

11 A. That will be ---

12 Q. No, no. What you were working on in
13 this report, is how to fit it into that basic
14 scientific method. And that answer that you gave just
15 now was really the first, I think -- the first that I
16 heard of how it was fitting in, because you said how
17 extensive the magnitude of the effect you expect to see
18 is. I wrote down your words.

19 Now, that is the point; isn't it, you
20 need to expect to see something first--

21 A. That's right.

22 Q. --before you put in your effects
23 monitoring?

24 A. That's right.

25 Q. I mean, that is the whole purpose of

1 the scientific method, you need to make a prediction
2 first?

3 A. That's right.

4 Q. And then you test to see if you are
5 wrong?

6 A. The nature of whatever prediction you
7 make does not have to be of the form: will increase by
8 "x" or will change by "y". One can easily test: will
9 decrease or will increase in the exact same way.

10 Q. Fair enough. But you can only test
11 the hypothesis quantitatively?

12 A. The effects monitoring has to be
13 quantitative, yes, I would agree.

14 Q. All right. So, how were these
15 quantitative forecasts or predictions made that you
16 need to start from?

17 A. Again, the workshops and so on that
18 we ran were designed to basically scope and screen
19 out -- screen all of the possible effects and so on
20 down to a set that then became -- okay, and based on
21 best current understanding--

22 Q. Mm-hmm.

23 A. --that should form the scope of
24 effects monitoring program.

25 I expect that the first phase of the

1 effects monitoring program itself would have to be a
2 phase in which you -- in which MNR, whoever conducts
3 the effects monitoring program, says or tries to
4 estimate as best as they can, what the scale and extent
5 of those effects might be.

6 Q. But to your knowledge, that hasn't
7 been done yet?

8 A. I am not sure whether that is a part
9 of the effects monitoring program that will be reviewed
10 in evidence Panel 16. I think that it probably is.

11 Q. Now, in this paper that we have been
12 reviewing of Dr. Baskerville in your evidence
13 statement, he specifically states that:

14 "Habitat objectives need to be
15 quantitatively defined and their
16 relationship to resource values
17 explicitly described."

18 And he says on page 365, in the first paragraph under
19 Forest Habitat Availability, that is in the second
20 column, but it is in the first paragraph under that
21 heading; do you see it?

22 A. I believe so.

23 Q. Forecast: --

24 A. Yes.

25 MR. ARMSTRONG: May I just have a second.

1 Q. "The situation with respect to
2 planning and implementing management to
3 regulate the availability of wildlife
4 habitat in a forest is a perfect analogue
5 to that of wood supply. Forest habitat
6 supply analysis can be carried out in the
7 same manner as wood supply analysis. It
8 may even be possible to use the same
9 manner as wood supply analysis. The
10 difference will be that the indicators
11 of stand development used in the forecast
12 will relate to habitat quality rather
13 than to wood volume. These habitat
14 indicators will quantitatively define the
15 food value or particular stages of stand
16 development, the cover value of
17 particular stages of stand development
18 and so on. This will require a
19 quantitative definition of the food and
20 cover indicators themselves. As with
21 wood availability, given appropriate
22 yield curves for food and cover for each
23 stand type in a forest, the availability
24 of these habitats in the forest can be
25 forecast into the future for any given

1 harvest and treatment schedule."

2 And do you agree with this view?

3 A. I agree that it is an end to which
4 resource management should aim, but in the real world
5 it is not as -- it is easier said than done.

6 Q. Most things are. The basic approach
7 that Dr. Baskerville is advocating is what is
8 technically referred to as a multi-objective
9 optimization function that has both timber and
10 non-timber objectives included in quantitative terms.

11 This is substantially different than the
12 guideline approach proposed by the MNR; would you not
13 agree?

14 A. Lots of responses. The idea that one
15 needs to optimize for resource values is one element of
16 the adaptive management approach. I don't myself
17 believe completely that (a) it needs -- that (a) if one
18 does adaptive management that is a step that needs to
19 be done or, (b) that you can ever get a group of
20 stakeholders to agree on what the objective function
21 is.

22 Q. Okay. Now, you have indicated that
23 you agree with, at least to some extent, Dr.
24 Baskerville's concept of adaptive management as an
25 effective goal. Your bone to pick is the real world,

1 but let's just deal with the concept.

2 And you have indicated that you see your
3 work as a first step toward this approach.

4 A. I am seeing -- no, that is not quite
5 true, sir. I said that if one were to implement the
6 adaptive management approach, the first -- basically
7 two thirds of the project we did would be the start of
8 using adaptive management. It may be used, as I said,
9 not should be used.

10 Q. That is what you said, I see it here
11 in writing. However, your study is based on the
12 constraint approach to timber management which Dr.
13 Baskerville roundly criticizes in the report which you
14 have referred to and elsewhere.

15 It has taken, as I understand it - and I
16 am new to this - ten years for this EA to reach this
17 hearing and it has taken many more years for the
18 guidelines recently introduced by MNR to be developed.

19 Now, what I want to know is: If the
20 guidelines are incorporated into an EA now as the
21 method to address non-timber values, is it not
22 reasonable to assume that it will be many, many years
23 before any basic alternative to guidelines is
24 considered.

25 A. I have no idea. I have no idea

1 whatsoever. One would have to do -- if you turn to
2 page 363 of the witness statement and the last sentence
3 in Step 5, the actions and their results in the
4 cause/effect sense are also measured in the manner of
5 their definition in Step 3, that is an effects
6 monitoring program. Whatever the type of resource
7 management one cares to do, I maintain that in order to
8 do it well an effects monitoring program needs to be
9 carried out.

10 Q. Will you agree with me that Dr.
11 Baskerville's proposal for adaptive management is an
12 entirely new conception of how one approaches the issue
13 of timber management?

14 A. The notion of adaptive management
15 has been around for many years. A number of agencies
16 and groups that we have worked with in the past have --
17 and which are obligated to timber management, have
18 asked us to help them start adaptive management, not
19 doing all of these nine steps as are outlined in this
20 on page 363, 364. So I don't think it is extremely
21 new.

22 Q. Well, you indicate a number of
23 other -- of clients to you, I guess. Would this be in
24 other provinces and other countries?

25 A. Yes.

1 THE CHAIRMAN: Dr. McNamee, in your
2 professional opinion, which approach do you think is
3 better, assuming that you would have an effects
4 monitoring program with both of them?

5 DR. McNAMEE: Both of them. Ignoring the
6 time it takes to start up and implement the adaptive
7 management approach, I would say that that is the
8 better approach and that is an approach that I believe
9 any resource management agency should move towards at a
10 reasonable speed.

11 THE CHAIRMAN: And how long do you think
12 realistically it would take to implement such an
13 approach to the point where you would be getting some
14 viable results?

15 DR. McNAMEE: No agency or group does
16 practice adaptive management that I know in all of the
17 resource management that they do. My sense is that it
18 would take a very long time, but I would also maintain
19 that that is probably no reason to not start.

20 THE CHAIRMAN: And just to qualify once
21 more, what is a very long time?

22 DR. McNAMEE: There is no experience that
23 we can draw from. I would say that it would be
24 reasonable to expect some observable movement towards
25 adaptive management in the space of maybe five years.

1 By that I mean not necessarily adaptive management
2 being done everywhere always.

3 THE CHAIRMAN: And, in your opinion, if
4 the Ministry for instance - and this is just a
5 hypothetical - decided to move towards adaptive
6 management techniques, would the guidelines approach
7 with an effects monitoring program be a sufficient stop
8 gap while adaptive management was being looked at
9 seriously?

10 DR. McNAMEE: If there is opportunity in
11 the effects monitoring program as it is put in place
12 and as it sort of evolves to use what is learned
13 through that period of time to improve and change the
14 guidelines, I would say yes.

15 THE CHAIRMAN: Thank you.

16 MR. ARMSTRONG: Q. In light of what has
17 just been discussed, Doctor - and you are familiar with
18 the qualifications of Dr. Baskerville - would you feel
19 that he would be recommending these quantitative
20 linkages --

21 DR. McNAMEE: A. I cannot speak for him
22 at all. I am sorry, sir, I can't judge what he would
23 say or wouldn't say to the Board.

24 THE CHAIRMAN: You realize, Mr.
25 Armstrong, we are going to have Dr. Baskerville with us

1 at some point?

2 MR. ARMSTRONG: Q. Now, I know you have
3 indicated that effects monitoring is necessary no
4 matter what systems of resource management you go to
5 and I think I can accept that, but what I see in the
6 work that is being done is --

7 DR. McNAMEE: A. Which work, sir?

8 Q. Your work.

9 A. Yes.

10 Q. --is a proposal for effects
11 monitoring which is really going to bolstering the
12 status quo.

13 A. It will -- if the effects monitoring
14 program is put in place to the extent which is
15 described in our March, '88 Report it will, I believe,
16 give -- improve the ones -- improve both the
17 understanding of how adequate the timber management
18 guidelines are, but I also believe that it will provide
19 a lot of understanding to improve what Dr. Baskerville
20 states as the quantitative cause and effect
21 relationships between timber management actions and the
22 resources of tourism, fish and moose.

23 So I believe it would do more than just,
24 as you said, preserve the status quo; I think it would
25 do much more than that.

1 Q. Well now, it may be that you would
2 have intentions for it to do more than that, and I can
3 understand that, but at page 199 of the EA your work is
4 referred to and it is used - you know, whether you like
5 it or not - as a support mechanism to see that the
6 guidelines find their way into the EA as the method for
7 dealing with those other values.

8 A. That may be.

9 Q. Right.

10 A. However, I believe that that the
11 effects monitoring program, if it is done and put in
12 place, will do a lot more than just that.

13 Q. Well, what I want to know: Did you
14 consider alternate ways of investing a comparable sum
15 of money - and I think we have agreed last time that it
16 is a lot and I don't know whether we got more
17 qualitative than that - to adopt the quantitative
18 approach or have you recommended this public expense to
19 monitor the effectiveness of the MNR's guidelines
20 because this is what you were asked to do?

21 A. The recommendation for the public
22 expense comes from MNR. If one accepts the fact - and
23 I do - that even if -- that an effects monitoring
24 program would need to be done if resource management
25 were to be done using adaptive management, one would

1 have to ask: Well, what would the costs of an effects
2 monitoring program under an adaptive management scheme
3 be. And I am not sure what those costs would be.

4 Q. Thank you, sir. And I hope I haven't
5 left you with the impression that the effects
6 monitoring is unimportant or that I was indicating that
7 in any way.

8 A. It has been a slice.

9 Q. Now, Mr. Straight, I would like to
10 address some questions principally to you, but before I
11 do that, I have looked at your background material and
12 I noted that you were instrumental in the plan
13 involving land owner consent forms for deer hunting on
14 Manitoulin Island and with implementing that.

15 And as a land owner on Manitoulin Island,
16 I just wanted to thank you for that.

17 MR. STRAIGHT: A. It was with your
18 interest that we did that, sir.

19 Q. And just in case by the end of the
20 day we are not on thanking each other terms, I thought
21 I would say that. Now, you have been qualified for
22 this Board as a highly trained and experienced resource
23 manager; right?

24 A. I believe I was qualified as a
25 resource manager, yes.

1 Q. And it is part of your duties to keep
2 current on new developments in your area of expertise?
3 Yes?

4 A. That is in resource management
5 administration, yes.

6 Q. And you meet that requirement?

7 A. With -- to the level -- yes.

8 Q. You have heard me speaking with Dr.
9 McNamee about wildlife habitat supply analysis. Can
10 you tell me what experience you have had with this
11 approach to integrated resource management?

12 A. Wildlife habitat supply analysis.
13 And do you mean in a general sense, or do you have
14 something specific that you are looking for?

15 Q. Well, specifically as put forward by
16 Dr. Baskerville.

17 A. Specifically as put forward by Dr.
18 Baskerville.

19 Q. In your witness statement.

20 A. I have no experience as defined by
21 Dr. Baskerville to the degree that I can -- relative to
22 my understanding of the model quantification type of
23 approach that Dr. Baskerville appears to be referring
24 to.

25 Q. Well, have you been acquainted with

1 the concept in general terms enough to get an
2 appreciation of the considerable controversy
3 surrounding the approach?

4 A. Controversy in what sense?

5 Q. Well, divergence of opinions about
6 it.

7 A. Well, I don't know what you mean by
8 divergence of opinions.

9 Q. Well, for instance, some expert might
10 say: Yes, this is a wonderful thing that we should be
11 moving towards, but it is not the real world.

12 A. Is there a divergence of opinion out
13 there?

14 Q. Yes.

15 A. Is this what you are telling me?

16 Q. That is what I am asking you.

17 A. Well, I guess -- I am not aware of a
18 divergence of opinion in that sense, as you will. I
19 guess in terms of my discussion and my knowledge of
20 resource managers and the number of experts in various
21 areas, I guess the greatest divergence of opinion would
22 probably come in the degree to which it is theoretical
23 or an experimental approach as opposed to something
24 that might be practical for a large resource management
25 organization.

1 In that sense, I have seen some and heard
2 of and been a part of some discussions in a general
3 context.

4 Q. Well, I get the impression then that
5 as far as you know that there is nothing documented and
6 written that argues against this habitat supply
7 analysis approach?

8 A. As a resource management
9 administrator, I would say that I haven't seen anything
10 to sell me on the fact that it is a deliverable
11 product.

12 Q. You haven't seen anything arguing
13 against it either?

14 A. I guess so, in saying in the sense
15 that, from a resource management administrator's point
16 of view, which I am, I would first want to be assured
17 that I had a practical, reasonable and effective
18 program or process that I could deliver. I have not
19 seen that.

20 In my own understanding, what I hear of
21 and am aware of in that process is still at that, if
22 you will, research stage.

23 Q. Were you aware that Dr. Baskerville
24 was the Assistant Deputy Minister of the Ministry of
25 Natural Resources in New Brunswick?

1 A. That he is or was?

2 Q. Was at one point.

3 A. I can recall reference to the fact or
4 knowing that he was that at one time, yes.

5 Q. And he too was once a senior resource
6 management person such as yourself?

7 A. I don't know.

8 MR. ARMSTRONG: If I can just have a
9 second, I want to get a little bit organized here.

10 Q. Now, you have had a chance to look at
11 Exhibit 406?

12 MR. STRAIGHT: A. I took a few minutes
13 during the break to quickly go through that, the parts
14 that you had highlighted.

15 Q. Mm-hmm, okay. Now, I want to take
16 advantage of your presence here before this panel
17 because I want to get a perspective. And I don't want
18 you to be overly modest because I have read your
19 background and that perspective, as I see it, is as a
20 highly trained and experienced resource manager. So if
21 you can wear that hat for me through this...

22 The first item that I have highlighted
23 for your consideration - but I will give a better
24 citation for others - these pages are numbered 356, so
25 it is the beginning actually of the paper that is

1 entitled: The Argument for Integrated Forest and
2 Wildlife Management in Canada. Now, I have asked you
3 to consider:

4 "To say that Canada stands at the
5 crossroads in forest management is much
6 more than a cliché. Indeed, the
7 philosophy of integrated resource
8 management has reached the point where it
9 is embraced by all forest users. There
10 is no question that the development of
11 the World Conservation Strategy in 1980
12 has been instrumental in helping people
13 to recognize the inalienable relationship
14 between the ecology, social and economic
15 components of the forest."

16 Now, do you have for us a -- what's your understanding
17 of the phrase "the inalienable relationship" in this
18 context?

19 A. I suppose, and my sense would be that
20 the word is used to support the fact that there are
21 relationships between the ecological, the social and
22 the economical components of the forest.

23 Q. To the point that they are
24 inextricably intertwined?

25 A. They are intertwined, yes.

1 Q. You can't consider one component of
2 the forest without considering all of the others at the
3 same time?

4 A. Yes, you have to be aware of effects
5 on all components, yes.

6 Q. All right. 357, first column, second
7 full paragraph:

8 "The House of Commons Standing Committee
9 on Environment and Forest is most aware
10 of the urgency of harmonizing the
11 objectives of forestry management and
12 wildlife conservation."

13 Does this not suggest that there is a current problem
14 that requires some urgent action?

15 A. You are asking for an inference
16 there?

17 Q. Yes.

18 A. Just looking at the statement,
19 recognizing that it appears to be one from a
20 Canada-wide perspective, one could generate that
21 feeling.

22 Q. And, in your opinion, is there a
23 matter of some urgency on the issue?

24 A. In Ontario or in Canada?

25 Q. Well, that's perhaps not a fair

1 question given the context that I am putting you in.

2 Now, the last sentence of that same paragraph:

3 "It is the opinion of the Committee that
4 the time to take action has come."

5 Again, in your opinion, does that not reinforce the
6 notion that there is a problem that requires immediate
7 action?

8 A. In Canada?

9 Q. Yes.

10 A. It would appear to say that. In
11 Canada, to this particular group, that's what it seems
12 to say. I don't personally have Canadian-wide
13 experience.

14 Q. Okay. Now, 357, again an area that I
15 have marked for you, first column, I guess about the
16 middle is the best way to direct you to it:

17 "According to Jack Ward Thomas, Chief
18 Research Wildlife Biologist with the U.S.
19 Forestry Service, loss of habitat is the
20 leading threat to wildlife in Canada and
21 the United States. This view is shared
22 by H.A. Clark, Director General of
23 the Canadian Wildlife Service, who
24 also maintains that a means must be
25 sought to harmonize wildlife conservation

1 and economic development. Consequently,
2 integrating wildlife objectives with the
3 paramaters of forest management must be
4 the main focus of discussions and
5 agreements between wildlife and forestry
6 experts."

7 A. And you are asking me...?

8 Q. Would you agree with this statement?

9 A. There is a lot in there.

10 Q. Well, if not the statement of its
11 entirety, then would you agree with the views contained
12 in the statement?

13 A. I believe that it is generally
14 accepted that loss of habitat is one of the main
15 factors regulating wildlife populations. What I find
16 somewhat surprising about this specific paragraph that
17 it goes from that particular statement to jump into
18 forestry.

19 And when you look at loss of wildlife
20 habitat, you are -- what appears to be compared to is
21 things like loss of wetlands in southern Ontario, loss
22 of wetlands in the prairies through agricultural
23 grainage, contamination of over-wintering areas and
24 loss of over-wintering areas of water foul through
25 urbanization of riparian and wetland areas, that sort

1 of thing.

2 To put all of those possible wildlife
3 losses in the same paragraph and then talk to forest
4 management, from my experience in Ontario, is quite a
5 bit -- we are talking at totally different levels of
6 magnitude in terms of impact of loss.

7 I would not compare that statement to
8 Ontario from my experience in terms of loss of habitat
9 in the area of the undertaking to what I perceive to be
10 the problems with loss of habitat for wildlife with
11 regard to some of previous examples that I mentioned,
12 particularly the wetland situation.

13 Q. All right. I am looking at the same
14 paragraph still and I take it, therefore, that you
15 disagree with the last sentence that says:

16 "Consequently, integrating wildlife
17 objectives with the paramaters of forest
18 management must be the main focus of
19 discussions and agreements between
20 wildlife and forestry experts."

21 A. It depends, sir, what our objective
22 is and what we are talking about here. If you are
23 talking about managing wildlife in the area of the
24 undertaking, I would personally think that that by
25 itself is not the main issue.

1 That does not mean, in my experience,
2 that it is not important to work with forest -- for
3 wildlife managers and forest managers to work together
4 and to harmonize the management of both of those
5 resources.

6 Q. Well, we follow right along:

7 "According to G.L Baskerville, Dean of
8 the Faculty of Forestry at the University
9 of New Brunswick, forestry resource
10 development has until now imposed
11 constraints on wildlife habitat. At
12 best, habitat has been protected by
13 isolating portions of it from timber
14 management."

15 Now, would you agree with that statement?

16 A. I guess it is the word constraint.
17 Those are Dr. Baskerville's words and those are the way
18 in which he uses it.

19 One would -- in asking me for an opinion,
20 if one loosely wanted -- if you mean, if you are going
21 to utilize the word constraint in an extremely loose
22 context in that you don't define it as something
23 specifically as saying that it is imposing -- well, I
24 don't look at it in the same way Dr. Baskerville does.

25 I guess the way I prefer to look at it is

1 that we are being proactive when it comes to, in
2 Ontario for example, in terms of the moose guidelines,
3 if you will and their potential effects that they have
4 on wildlife habitat in general from a Province of
5 Ontario perspective, a Ministry of Natural Resources'
6 perspective, as being a proactive attempt to encourage
7 and improve habitat for wildlife while we conduct
8 timber management activities.

9 Q. All right. Now, I want to be fair to
10 you and realize some of my questioning may have been
11 fairly confining and you may want to take your head
12 with this one a little bit, and you may have heard it
13 before, but what you are talking about leads into it,
14 and we obviously have somewhat differing views.

15 But the area of concern aspect of the
16 planning process I have to see in terms of constraint,
17 and I would like to know, one last time, if area of
18 concern planning process is not what is termed as a
19 constraint approach to timber management? You know,
20 and we have been talking in Baskerville terms and you
21 have been trying to as well so...

22 A. But I am not familiar with
23 Baskerville's terminology and I don't pretend to fully
24 understand the depth to which he is -- the depth of his
25 understanding. I look at the area of concern planning

1 process again as a very positive approach to identify
2 those values at potential risk so we are in a position
3 to take measures to prevent or minimize damage.

4 So I guess it is from your perspective,
5 whether you are a positive-thinking individual or the
6 reverse.

7 THE CHAIRMAN: Would it be fair to say
8 that you don't agree with Baskerville?

9 MR. STRAIGHT: There are some things of
10 Baskerville - and I am only talking in a generalized
11 viewpoint - personally I would share Dr. McNamee's view
12 that down the line, in the long run, that's a
13 worthwhile objective for us to seek and to review to
14 the degree that it is practical to implement. And I
15 speak in an extremely generalized sense that there are
16 some good messages there.

17 MR. ARMSTRONG: Q. Now, we are getting
18 close to the home stretch, Mr. Straight, so I just want
19 to bounce a few more of these concepts off you and get
20 your opinion from your area of expertise.

21 Carrying on in the vicinity that I have
22 marked for you, 35.8, first column down near the
23 bottom, at the bottom:

24 "The notion of integrated management is
25 not a pipe dream, it is an attainable

1 goal, however, integration of these two
2 characteristics of the forest is
3 attainable only when both are being
4 actively managed. Integrated management
5 is not attainable merely by constraining
6 one or the other."

7 Now, can you agree or disagree with that?

8 MR. STRAIGHT: A. You see, in this
9 particular paragraph we were referring to one or the
10 other. And What is -- one, I am assuming, is timber
11 and timber objectives. What is the other -- what am I
12 looking at here?

13 Q. Non-timber values?

14 A. Is it non-timber or is it wildlife?

15 Q. Non-timber.

16 A. Are you certain? I mean, we just
17 finished talking about wildlife with Jack Ward Thomas
18 and wildlife habitat in the paragraph with regard to
19 Dr. Baskerville.

20 Q. Well, why don't you try it this way:
21 Interpret is as wildlife first and then non-timber and
22 tell me what you think in each case.

23 A. Well, I guess we are talking about
24 the notion of integrated management not being a pipe
25 dream and we are saying it is not attainable merely by

1 constraining one or the other. I would read that to
2 mean wildlife in reference to what had been previously
3 been described.

4 Q. All right.

5 A. Would you not?

6 Q. Not necessarily, but I am content
7 that your answer be in that framework.

8 A. The process which the Ministry of
9 Natural Resources is putting before the Environmental
10 Assessment Hearing Board is one that attempts to deal
11 with all of those other values for one thing and, in
12 our assessment, is tailored to fit our organization and
13 our understanding and experience, having natural
14 resource management capabilities currently and having
15 done it for a number of years.

16 In terms of that section in general, Dr.
17 Baskerville appears to recognize that it is not a pipe
18 dream and I can't speak for him; all I can speak to you
19 as is a resource administrator, having some general
20 knowledge of what he has referred to in his approach.
21 And I would go back to what I say earlier, that I would
22 want to see it demonstrated to me that indeed it was
23 practical before I could give you any different
24 viewpoint other than I have expressed.

25 Q. So I take it you don't agree with him

1 for the time being?

2 A. Well, I think you odn't buy a car
3 until you try it. In that context, I think I said
4 basically before that to me my assessment and my
5 current understanding is, is that it is still at the
6 theoretical or research area, that in my understanding,
7 the general one I have as a resource management
8 administrator, is that we are not ready to implement
9 that on a practical and deliverable basis at this time.

10 Q. And even theoretically you don't
11 agree with that?

12 A. I also spoke to that and said that in
13 the terms of theory, in terms of researching those
14 kinds of avenues, the Ministry of Natural Resources has
15 been involved in that kind of research in the past and
16 continue to do that and, in that context, it is
17 extremely liable end to work towards.

18 Q. A little further down in the same
19 column and you will see that it is marked for you,
20 under: The Forest Industry, second last sentence in
21 that paragraph:

22 "in addition to pointing out shortcomings
23 in current research and the need for
24 cooperation between forestry experts and
25 wildlife biologists, the members of the

1 institute recognize the crucial role of
2 the forest industries in wildlife
3 management."

4 You would agree with that?

5 A. That forest industries play a crucial
6 role in wildlife management?

7 Q. The sentence...

8 A. Is that the crux of that paragraph as
9 you understand it?

10 Q. Well, I am more interested in your
11 opinion of that concept as outlined in that sentence.

12 A. I agree that forest industries play a
13 role in wildlife management. I am not sure that -- I
14 would say an important role.

15 Q. You would say an important role, is
16 that -- I just want to make sure I heard you?

17 A. Yes, I believe forest industries play
18 a role, an important role -- that they can play an
19 important role in wildlife management.

20 Q. All right. Page 35.10, first column,
21 second paragraph.

22 MR. FREIDIN: What page?

23 MR. ARMSTRONG: Q. 35.10, first column,
24 second paragraph.

25 "The Canadian Forestry Association

1 sees no technical reason why wildlife
2 management and forest management cannot
3 be integrated."

4 Would you agree with that proposal?

5 MR. STRAIGHT: A. I believe we are doing
6 that in Ontario. If within that context you mean that,
7 I would support it.

8 Q. So you agree?

9 A. I believe we are integrating, yes.

10 Q. Now, if we can go to 35.16, bottom of
11 the first column under the heading: Conclusion. Did
12 you find it?

13 A. Yes, I have it.

14 Q. "The necessity of harmonizing forest
15 management with wildlife management is
16 obvious. The achievement of the goal of
17 sustainable development in our forests
18 will be extremely difficult but must
19 become an urgent priority. The success
20 of efforts to achieve integrated resource
21 management depends to a large extent on
22 the establishment of precise goals."

23 You would agree with that?

24 A. The first sentence:

25 "The necessity of harmonizing forest

1 management with wildlife management is
2 obvious."

3 I believe this to be the case.

4 "The achievement of the goal of
5 sustainable development in our forests
6 will be extremely difficult but must
7 become an urgent priority."

8 I believe -- I agree with that in concept with all
9 natural -- in the sense that all natural resources
10 within our jurisdiction, wildlife and timber, we manage
11 on a sustainable development context.

12 Q. And the last sentence?

13 A. The last sentence:

14 "The success of efforts to achieve
15 integrated resource management depends
16 to a large extent on the establishment of
17 precise goals."

18 Within a totally theoretical context, I agree that it
19 would be advantageous to have very explicit goals for
20 all values, but I guess the practicality of that, in my
21 experience, is that while that objective is very
22 admirable we are not there yet and to the degree of the
23 practical realization of some of the constraints that -
24 sorry, I don't like -- constraints has been used
25 perhaps in a different context - with some of the

1 bounds that have been on natural resource management
2 which have been referred to perhaps repeatedly
3 throughout your evidence-in-chief and with reference to
4 the work of Dr. McNamee, that there is a great amount
5 of uncertainty in terms of being able to establish
6 those precise quantitative links and, consequently,
7 those precise goals.

8 So I believe that while that is an
9 admirable objective to seek, that we must be faced with
10 the practical realities of working and living in an
11 environment with less than perfect scientific
12 information and scientific understanding.

13 And I think you will see that the
14 Ministry of Natural Resources has tried to develop a
15 very reasonable, deliverable and practical technique to
16 reflect those scientific uncertainties and, at the same
17 time, not close the doors because you will see in our
18 monitoring program that we are very concerned with
19 trying to make some of those quantitative predictions
20 more certain, if you will, and have built those kinds
21 of contexts -- those kinds of concepts into the
22 process, to the degree that we can, that we think is
23 practical and reasonable.

24 Q. So the scorecard comes out
25 theoretically agree and the rest is in the realm of the

1 art of the possible?

2 A. What was your last comment there?

3 Sorry, I got the first part, the scorecard. The second
4 part somehow alluded me.

5 Q. Well, theoretically you agree and as
6 to the other practicalities that has to be left to the
7 art of the possible or whatever, how things...

8 A. It is the whatever that concerns me.

9 Q. Well, let me leave it at you are
10 theoretically in agreement, or you are in agreement
11 with the theory?

12 A. I believe that we should be
13 attempting to attain those kinds of lofty ideals, yes.

14 Q. Okay.

15 MR. ARMSTRONG: Just give me a second, if
16 you would, please.

17 Q. Well, while you have directed us to
18 that area of practicality, you were answering some
19 questions in assisting Dr. McNamee in questions
20 revealing your acquaintance with the ESSA Report
21 earlier, and I take it you are familiar with that
22 report?

23 MR. STRAIGHT: A. Yes, I am.

24 Q. All right. Well, I examined with him
25 on page 216 of that Report--

1 A. Yes, I have it.

2 Q. --the comment:

3 "To say that the guidelines are designed
4 to protect the resource value, i.e., the
5 population from timber management
6 activities implies that the relationship
7 between habitat and levels of different
8 resource values is known."

9 Now, in the practical side of your answer, were you not
10 just telling me that that can't be done?

11 A. What can't be done; to establish that
12 linkage?

13 Q. Yes.

14 A. I think it is on the record quite a
15 number of times that those linkages are not generally
16 quantifiably known, that's correct.

17 Q. Well, this is then a pretty basic
18 question - and forgive me for asking basics at this
19 stage - but given what you have just said, how can you
20 use the guidelines to protect these other resource
21 values?

22 Now, if you don't know the relationship,
23 which you have just told us you don't know...

24 A. Quantitative, the word I think
25 perhaps is the key message. It should not be confused

1 with the concept that Ministry wildlife managers don't
2 know anything.

3 Q. I don't think anybody suggested that.

4 A. Well, that is good because there has
5 been a lot of valuable work that has been done in the
6 area and people certainly have benefitted from years of
7 experience in managing wildlife populations to learn a
8 lot.

9 And I guess the basic thrust behind the
10 guidelines is to say not only for wildlife but fish and
11 with tourism, that despite this lack of quantification
12 of all of the variables and all of the rules, if you
13 will, and all of the types of physiographic and
14 climatic situations you can run into, that peoples'
15 best judgment, in terms of predicting effects or
16 assessing impacts, is still a lofty or a worth -- not a
17 lofty, a worthwhile objective to pursue and, if you
18 will, the guidelines themselves essentially are the
19 result of that practical experience, the research in
20 management work that has been done to date in a sense
21 an accumulation, a synthesis of the best current
22 understanding that exists.

23 And that is the way we have practically
24 chosen to deal with the area of unknown and
25 uncertainty, in a sense, the straight scientific

1 quantitative sense that has been referred to in the
2 ESSA document and throughout our evidence.

3 Q. Now, the material that we have been
4 going through, and I have been getting your opinion on
5 and other material, it appears from various submissions
6 made to the Standing Committee that there was virtually
7 unanimous agreement on the need to integrate non-timber
8 resource objectives in quantifiable, measurable and
9 linked terms.

10 A. I don't have that understanding. I
11 did not necessarily read all of that into the specific
12 paragraphs or sections you gave me. If you want me to
13 accept that, I would have to spend some time reviewing
14 that.

15 Q. Well, maybe it would be easier for
16 you to have a look at recommendation No. 2 on 36.18:

17 "That future..."

18 A. I haven't got it yet, just a second.

19 Q. Oh, I am sorry.

20 A. Okay.

21 Q. First column at the bottom,
22 recommendation No. 2.

23 A. Yes.

24 Q. "That future federal/provincial
25 forest resource development agreements

1 should be consistent with sustainable
2 development, the world conservation
3 strategy and the natural forest sector
4 strategy for Canada where there is no
5 conflict. Further agreement should
6 provide for the inclusion of integrated
7 wildlife and forestry objectives and
8 support the funding of forest management
9 practices that would ensure the
10 sustainability of forest resources and
11 wildlife."

12 Now, inasmuch as it is a recommendation, would you
13 agree with me that there seems to be an agreement on
14 coming to the recommendation?

15 A. The group that involved, if they came
16 up with a recommendation, I would assume that they came
17 to some agreement, unless there is a minority report
18 here that I am not aware of.

19 Q. I am not either. So getting back to
20 the question that the various submissions, that there
21 seems to be -- at least leading to a recommendation -
22 the need to integrate non-timber resource objectives in
23 quantifiable, measurable and linked terms, can you
24 offer any assurance or direct me to where that is in
25 the proposed EA?

1 A. To what, sir?

2 Q. And where the proposed EA explains
3 how these non-timber objectives will be established and
4 how these decision-making tools fit into the proposed
5 planning process?

6 A. Where is that in recommendation 2,
7 sir?

8 Q. Well:

9 "...future agreements should provide for
10 the inclusion of integrated wildlife and
11 forestry objectives."

12 Now, wouldn't --

13 A. Yes, and that integration I would
14 suggest to you could take many forms.

15 Q. All right. But -- so where is that
16 consideration in the environmental assessment?

17 A. We are dealing with a recommendation
18 of a report here. If you have a specific question to
19 ask with regard to the environmental assessment,
20 perhaps it should be phrased relative to the
21 environmental assessment.

22 Q. Okay.

23 A. Not within the context of this
24 recommendation in this report.

25 Q. Please direct me to where in the

1 proposed Class EA it explains how non-timber objectives
2 will be established and how these decision-making tools
3 fit into the proposed planning process?

4 A. The Class EA, to the best of my
5 knowledge, does not deal with the establishment of
6 non-timber objectives, it deals with the
7 establishment -- it deals with the method by which the
8 Ministry is proposing to manage timber resources and
9 the method by which we intend to protect the
10 environment.

11 Q. Now, I am not suggesting that it
12 shouldn't do this, but the EA does lay out how you
13 establish wood supply objectives; yes?

14 A. The way in which, or that it should,
15 or that it does?

16 Q. That it does and the way -- both.

17 A. I believe that timber management
18 objectives are a part of the timber management planning
19 process which is part of the EA -- Class EA, yes.

20 Q. Okay. Now, I just need a second to
21 find another reference.

22 Now, Mr. Straight, this is a last point
23 that arose in my questioning of Dr. McNamee. He is of
24 the opinion that his work does not address the action
25 point of Dr. Baskerville in his audit report relating

1 to the need to ensure that other resource values such
2 as wildlife habitat are managed toward measurable,
3 quantifiable and linked objectives.

4 Do you agree with Dr. McNamee?

5 A. Would you repeat that, please?

6 Q. All right. He is of the opinion that
7 his work does not address the action point of Dr.
8 Baskerville in his audit report relating to the need to
9 ensure that other resource values such as wildlife
10 habitat are managed towards measurable, quantifiable
11 and linked objectives.

12 And my question was: Do you agree with
13 the Doctor?

14 A. Can I see that statement of Dr.
15 Baskerville's first, please?

16 Q. Now... I think Dr. McNamee is finding
17 it for you.

18 DR. McNAMEE: A. Somewhere here. Which
19 page?

20 MR. STRAIGHT: A. Did you have the page?

21 Q. If I can just have a second. 84,
22 middle paragraph.

23 A. Is there a particular section there?
24 I thought you were referring to a recommendation; were
25 you not?

1 MR. ARMSTRONG: We may need to put in
2 another document as well, Mr. Chairman. Now, I am
3 getting sufficiently close to know that we will be able
4 to complete as undertaken and I don't know when you
5 --or if you plan to have a second break in the
6 afternoon?

7 THE CHAIRMAN: I think we will to give
8 the panel and the court reporter a break as well.

9 Is this a convenient time?

10 MR. ARMSTRONG: Yes, this would be good
11 time.

12 THE CHAIRMAN: All right. We will break
13 for another 15 minutes.

14 Thank you.

15 ---Recess taken at 4:20 p.m.

16 ---Upon resuming at 4:40 p.m.

17 THE CHAIRMAN: Thank you. Be seated,
18 please.

19 MR. ARMSTRONG: Q. Now, I left off in
20 the middle of one question that required a reference.
21 I have it and I will be dealing with that almost
22 immediately.

23 But, Mr. Straight, in the exercise that
24 we were going through in terms of getting your opinion
25 on certain materials and matter, I wanted one more

1 opinion and this relates to Exhibit 405 entitled --
2 this is the Baskerville paper: Integrating Management
3 for Habitat and Timber, a Brief to the Standing
4 Committee on Environmental and Forestry of the House of
5 Commons.

6 MR. STRAIGHT: A. I have it.

7 Q. Yes. Page 6 at the bottom paragraph:

8 "To be successfully integrated, habitat
9 management must move away from vague
10 principle and achieve measures, however
11 tentative, that permit implementation of
12 and assessment of management
13 effectiveness. Examples of this exist.

14 Dr. Thomas, who will address your
15 Committee, has shown in his landmark work
16 on habitats in the Blue Mountains that it
17 is possible to make the first
18 approximation and to design and implement
19 management of habitat pattern. There are
20 also some super examples in Canada. In
21 British Columbia, a group of scientists
22 from UBC have joined forces with McMillan
23 Bloedel and provincial resource managers
24 to manage deer habitat. That program is
25 supported by NSERC, by industry, by

1 provincial government, by UBC and by
2 Wildlife Habitat Canada. It takes such a
3 group because of the nature of the work
4 and because those are the sorts of
5 agencies that must, in the end, implement
6 habitat management and assess its
7 effectiveness. In New Brunswick the
8 provincial government, with substantial
9 moral and dollar support from Wildlife
10 Habitat Canada, has made progress in
11 repeating the Blue Mountains' example for
12 whole forest management units."

13 Now, my question is: In your determination that the
14 Baskerville approach was theoretically fine but
15 practically unattainable, were you aware of the
16 existence of these examples?

17 A. I believe what is being discussed
18 here is the assessment of management effectiveness, is
19 it not, not necessarily Dr. Baskerville's entire
20 adaptive management process.

21 Q. I don't believe so, no, not the
22 assessment.

23 A. Well, it says:

24 "To be successfully integrated it must
25 move away from vague principle and

1 achieve measures that permit
2 implementation and assessment of
3 management effectiveness..."

4 Q. Well, what I would really like to
5 know, Mr. Straight; are you familiar with these
6 projects or studies?

7 A. I am not personally familiar with
8 these specific projects, no.

9 Q. Thank you.

10 MR. ARMSTRONG: Now, to deal with the
11 question that I was dealing with you earlier and the
12 reference that I had made, your Ministry has prepared a
13 condensation, if you will, of the Baskerville audit
14 report and I would like to make this an exhibit. It is
15 Ministry of Natural Resources Action Plan on Forest
16 Management.

17 MR. FREIDIN: It is already an exhibit.

18 THE CHAIRMAN: It is already an exhibit.

19 MR. ARMSTRONG: Oh, is it. I am sorry
20 then.

21 THE CHAIRMAN: Do you have the number,
22 Mr. Freidin?

23 MR. FREIDIN: Not right off hand.

24 MR. ARMSTRONG: If it is already an
25 exhibit, it clearly doesn't need to be numbered, but I

1 can provide the circulation of these copies which will
2 save looking for it.

3 THE CHAIRMAN: If it is the same
4 document, yes.

5 MR. ARMSTRONG: (handed)

6 THE CHAIRMAN: Thank you.

7 Do you know if this was put in, Mr.
8 Freidin, as a separate exhibit or was this part of
9 another one?

10 MR. FREIDIN: I don't recall. I just
11 know that Mr. Armson spoke to the Action Plan at length
12 in Panel 2.

13 THE CHAIRMAN: Well, perhaps in order to
14 save some time, maybe we will give it a separate
15 number. If it is duplicated, so be it. Exhibit 410.

16 ---EXHIBIT NO. 410: Ministry of Natural Resources
17 Action Plan on Forest Management.

18 MR. ARMSTRONG: Q. All right. Mr.
19 Straight, the core of my question to some extent came
20 out of page 1 there is -- you see dots down one side?

21 MR. STRAIGHT: A. Yes, I can.

22 Q. The third dot. Now, what I was
23 getting to is that Dr. McNamee indicated that that ESSA
24 report didn't address the action point relating to the
25 need to ensure that other resource values such as

1 wildlife habitat are managed toward measurable,
2 quantifiable and linked objectives.

3 And my question was: Do you agree that
4 it didn't address that?

5 A. I agree in the context that the work
6 was designed to assess effects of timber management and
7 the linkages between the timber management actions and
8 those effects. As well, the primary purpose of the
9 work, as Dr. McNamee had summarized, were essentially
10 to establish the range of effects, to get an
11 understanding of those, the relative scales or levels
12 of significance of those effects, and to generate a
13 sense of expert opinion on which the future monitoring
14 program would be developed.

15 Q. So you do agree with him?

16 A. Yes.

17 MR. ARMSTRONG: Mr. Chairman, I have a
18 further exhibit, the Honourable Vincent Kerrio,
19 Minister of Natural Resource statement to Standing
20 Committee on Resources Development. (handed)

21 THE CHAIRMAN: That will be Exhibit 411.

22 ---EXHIBIT NO. 411: Statement by Vincent Kerrio,
23 Minister of Natural Resources to
24 Standing Committee on Resources
Development.

25 MR. ARMSTRONG: Q. So my concern, Mr.

1 Straight, from this document --

2 MR. STRAIGHT: A. Sorry, I don't have a
3 copy.

4 Q. Oh, I am sorry. (handed)

5 MR. STRAIGHT: A. Thank you.

6 Q. Statement to the Provincial Standing
7 Committee on Resources Development made by your
8 Minister. Now, I would like to quote from page 18,
9 first column. Page 18, in the first column:

10 "Concern No. 3 in the Baskerville Report
11 was the need to ensure that other
12 resource values such as wildlife habitat
13 and a resource base for recreation and
14 tourism are managed toward measurable and
15 quantifiable objectives. Our actions
16 included our tenth initiative. The
17 Ministry contracted with an environmental
18 consulting firm to conduct workshops
19 involving groups with a stake in forest
20 management, tourist operators, anglers
21 and hunters, federal/provincial fisheries
22 researchers and forestry researchers,
23 representatives from the forest industry,
24 staff from the Ministry of the
25 Environment, and delegates from the

1 universities."

2 In your opinion, is the environmental consulting firm
3 referred to by the Minister ESSA?

4 A. I believe that's correct.

5 Q. Now, this statement suggests that the
6 Minister is of the view that the ESSA work is
7 addressing Dr. Baskerville's concern regarding
8 non-timber values. It appears that my client isn't the
9 only one unclear as to the purpose of the ESSA work.

10 Do you know of any other on-going
11 Ministry initiatives to incorporate quantitative,
12 measurable and linked objectives for non-timber values
13 in timber management plans as recommended by Dr.
14 Baskerville?

15 A. I have -- just a second. I should, I
16 guess, have an actual summary of the Ministry's action
17 plan relative to Dr. Baskerville's recommendations to
18 refer to before I give you that response.

19 Q. I believe it is included in what is
20 now Exhibit 410, I think. You have that?

21 A. Well, this -- let me just see if it
22 deals with it here then. There may or may not be
23 another document that summarizes the Ministry's action
24 plan. I am not specifically sure that this is the
25 exact one.

1 MR. FREIDIN: Mr. Chairman, there is in
2 the Environmental Assessment Document, Exhibit No. 4, a
3 list or summary of the MNR's action plan with numbers,
4 there is a number 10. It is in Appendix No. 7,
5 unfortunately the pages aren't numbered.

6 MR. STRAIGHT: And that says:

7 "The Minister will conduct an examination
8 into the effects of timber management
9 practices on non-timber values such as
10 wildlife habitat and tourism."

11 And that is, in essence, what we did in dealing with --
12 or better, in going through the workshop exercises that
13 Dr. McNamee referred to.

14 There is another important link here in
15 that we are - and you will see in Panel 16 - taking
16 action in our monitoring program with regard to
17 quantification of effects and, in that sense, there is
18 also concern for what Dr. Baskerville has suggested in
19 a general sense with a regard to a need to quantify
20 effects. There is somewhat of a difference here
21 between objectives, if you will -- full quantification
22 of objectives which is part of Dr. Baskerville's
23 adaptive management technique and the quantification of
24 effects of timber management actions on, for example,
25 moose habitat and the linkage of those habitat changes

1 to the level of the population.

2 And our monitoring program that you will
3 see in Panel 16 is attempting to quantify a number of
4 those linkages between actions and population level
5 effects, and that detail will be explained as part of
6 Panel 16.

7 Q. My question was: Do you know of any
8 other ongoing Ministry initiatives to incorporate
9 quantitative, measurable and linked objectives for
10 non-timber values in timber management plans as
11 recommended by Dr. Baskerville, and I take it Panel 16
12 is to address that issue?

13 A. Panel 16 will be dealing with the
14 degree to which the Ministry will be dealing with
15 quantification of effects as part of the monitoring
16 program.

17 MR. FREIDIN: Panel 15 will also be
18 dealing with the role that quantifiable objectives for
19 non-timber programs play in timber management planning.

20 MR. ARMSTRONG: Q. Now, I am just not
21 sure what I am getting, so let me try it this way.

22 The need, as seen by Dr. Baskerville, to
23 incorporate quantitative, measurable and linked
24 objectives for non-timber values in timber management
25 plans; is that being rejected by your Ministry?

1 MR. STRAIGHT: A. I am sorry, sir, my
2 recall is having problems here. The specific
3 recommendation you are referring to is where? Where do
4 I find it?

5 Q. Exhibit 410, the third dot down the
6 page, the first page.

7 A. The Panel No. 16 with which I am
8 familiar will be dealing with, as I said, the specific
9 attempts by the Ministry to deal with quantification of
10 actions and effects at the population level.

11 Q. Yes. But my question was: This
12 particular need that we have just found, that third
13 dot, has an area requiring action. Has that been
14 rejected by your Ministry?

15 A. I am not certain.

16 Q. Of course we are looking forward to
17 hearing Dr. Baskerville's view on the proposed EA from
18 him.

19 Does the proposed purpose of this Class
20 EA not summarize the views of your Ministry, that it is
21 the objective of timber management in Ontario that
22 there be a continuous and predictable supply of wood?
23 And I think I opened with that at page 8 on the EA with
24 Mr. Scott.

25 A. Yes. Page 8 says:

1 "The purpose of the undertaking is to
2 provide a continuous and predictable
3 supply of wood for Ontario's forest
4 products industry."

5 Q. And put that way, does it not
6 necessarily put other resource values secondary, indeed
7 as a constraint?

8 A. I don't believe that that statement
9 necessarily implies anything of that nature.

10 Q. Let me ask you this: Would an
11 integrated resource management approach to timber
12 management as recommended by Dr. Baskerville, the
13 Federal Standing Committee on Forestry and the
14 Environment, and others, be more likely structured on a
15 purpose along the lines: To ensure a continuous and
16 predictable optimal supply of resource benefits?

17 MR. FREIDIN: Well, Mr. Chairman, we know
18 what the purpose of this environmental assessment is,
19 we have been through that a number of times.

20 We will get into an argument perhaps some
21 day about whether -- well, I don't think it is
22 appropriate to talk about whether the purpose should be
23 something different; the purpose is clear.

24 THE CHAIRMAN: Mr. Armstrong, the
25 Ministry of Natural Resources, the proponent, has

1 framed their application to this Board under the Act.
2 There is, I think, jurisprudence of the courts in this
3 province to the effect that the applicant or proponent
4 has the right to describe the undertaking in the terms
5 in which they choose to describe it, and it is up to
6 this Board to decide at the end of the case whether its
7 decision will be in accordance with the way the
8 application has in fact been framed.

9 MR. ARMSTRONG: Yes, sir. Well, it was
10 something of a rhetorical question but I would have
11 felt that I had failed if I hadn't got Mr. Freidin on
12 his feet at least once today.

13 MR. FREIDIN: Unusual.

14 THE CHAIRMAN: You succeeded.

15 MR. ARMSTRONG: I am advised - and I do
16 this by way of I suppose notice - that there may be,
17 whether in-chief or later, some precedent put forward
18 to indicate that the proposal that I have made does in
19 fact have some bearing that can be properly raised,
20 But that certainly will be left to another day and that
21 I believe concludes our cross-examination.

22 THE CHAIRMAN: Thank you, Mr. Armstrong.
23 You certainly were true to your word today. It is
24 before six o'clock and it appears that you, on behalf
25 of your client, is through.

1 MR. ARMSTRONG: That's right.

2 THE CHAIRMAN: Very well. Before we go
3 on, Ms. Seaborn, are you ready to proceed at this time
4 with the commencement of your...

5 MS. SEABORN: What I would like to do,
6 Mr. Chairman, is: I can deal with some issues I have
7 with the interrogatories and perhaps I can take as long
8 as that takes - I would think maybe 20 minutes - and
9 start the bulk of the cross-examination tomorrow
10 morning, if that's agreeable.

11 THE CHAIRMAN: Okay, that would be
12 acceptable.

13 Mr. Freidin, I don't know how long you
14 will be, but I indicated at the break, I think to Ms.
15 Blastorah, whether it might be possible if you are
16 going to finish at a reasonable time tomorrow that we
17 might start Panel 9, if your witnesses are ready to go,
18 and I hope they are.

19 MR. FREIDIN: He.

20 THE CHAIRMAN: He, right.

21 MR. FREIDIN: He is. Yes, I think that
22 we should be ready to go when I finish re-examination.
23 I think I would want a break to perhaps get my head
24 into the Panel 9 mode and to get the other paper down
25 here, but I think we should be able to proceed with a

1 very short break.

2 THE CHAIRMAN: Very well. Just before we
3 commence, Ms. Seaborn, with your cross-examination, I
4 wanted to raise a matter that came up last week and we
5 would like the assistance of counsel with and; that is,
6 with respect to the calling of Dean Baskerville.

7 The Board has been giving some thought to
8 this and we would like to put it out to the clients --
9 sorry, to the counsel as to how we might go about this
10 when the event arrives.

11 What the Board is considering as a
12 possibility is for the Board to call Dean Baskerville
13 as its witness and retain counsel for the Board for the
14 purpose of examining in-chief Dean Baskerville and
15 also, I suppose, for the purpose of representing him in
16 terms of any cross-examination.

17 So that it would be the Board's counsel
18 that, in effect -- perhaps this is not the proper way
19 to put it, but to protect his rights as a witness, as
20 opposed to leaving it up to Mr. Freidin to call Dean
21 Baskerville.

22 In that fashion, the counsel could put
23 forward to Dean Baskerville some of the questions that
24 the Board would like answered, if he is able to do so
25 and then, of course, the other parties would be in a

1 position to cross-examine Dean Baskerville.

2 Now, this of course is with the
3 supposition that Dean Baskerville would be agreeable to
4 that if the Board chose to go that route, and that
5 might allow some comment by Dean Baskerville on how he
6 feels, in his opinion, about the Ministry's proposal
7 before the Board as opposed to just a straight recount
8 of how he felt at the time he completed his audit,
9 because that was some time ago and, of course, the
10 Ministry has taken steps in terms of their application
11 to address some of his concerns expressed in that
12 audit.

13 So that is one suggestion that we would
14 like to put out, and we would be grateful to receive
15 comment from counsel towards the end of the week as to
16 that proposal. If that proves to be unacceptable or
17 counsel raises some objections which the Board agrees
18 with, then perhaps we will go some other route.

19 The other thing is, is that if that were
20 the case we assume that Dean Baskerville might be
21 called towards the end of the case and probably after
22 Panel 16 which would perhaps give him an opportunity to
23 also consider the monitoring aspects of the proponent's
24 application.

25 In suggesting this, we are not suggesting

1 that Dean Baskerville sift through from day one all of
2 the evidence presented in this case. We would
3 basically be asking him, I suppose, to look at the
4 Class EA Document itself and perhaps taking a look at
5 some of the documentation dealing with Panel 15's
6 evidence and Panel 16's evidence. Certainly Dean
7 Baskerville, I would suggest, is familiar with the
8 theory behind forest management which has been the
9 subject matter of several of the panels to this point.

10 So that is the Board's suggestion as to
11 how to handle this particular witness and we put it out
12 to the parties for their comment. Perhaps we can deal
13 with this before we rise on Thursday.

14 MR. FREIDIN: I would prefer, Mr.
15 Chairman, if we could deal with it next week.

16 THE CHAIRMAN: Next week?

17 MR. FREIDIN: Yes.

18 THE CHAIRMAN: Very well.

19 MR. ARMSTRONG: If I might, Mr. Chairman,
20 I won't be here at that time, I am quite sure, but I
21 would like to say that at this stage right now I can,
22 as far as my client is concerned, adopt that approach
23 wholeheartedly.

24 THE CHAIRMAN: Okay. So we will take it
25 from your client's perspective that the Board's

1 proposal as suggested meets with your approval?

2 MR. ARMSTRONG: Yes, sir.

3 THE CHAIRMAN: Thank you.

4 Okay. We will deal with this then
5 formally in the next week at some point.

6 MR. FREIDIN: Late in the week
7 preferably.

8 Mr. Chairman, perhaps another matter that
9 I should just raise now in relation to Panel No. 9. I
10 thought that we probably would have been through Panel
11 No. 9 perhaps by now; panel No. 8 is taking
12 considerably longer than I had estimated and I think
13 longer than anybody -- a lot of people had estimated.

14 Mr. Armson is not available on any
15 Mondays; he was available this Monday. I didn't raise
16 the matter because I thought that we would have had him
17 here and had him cross-examined and re-examined.

18 So, if possible, if you want to sit four
19 days a week - and we are not going to finish Mr. Armson
20 this week - I would suggest that the Board consider the
21 possibility of sitting Tuesday to Friday next week and
22 perhaps Tuesday to Friday until such time as Mr. Armson
23 is finished.

24 THE CHAIRMAN: Well, we have got the site
25 visit on the Wednesday night and the Board itself, the

1 Environmental Assessment Board, has a meeting on the
2 24th, I think it is the Friday. So we can't be in
3 attendance on the Friday and we are leaving here, as
4 you know, Wednesday night supposedly to go back to
5 Toronto and then back up to Timmins for the site visit
6 on the Thursday at MNR's invitation.

7 MR. FREIDIN: Yes. Well, I am in your
8 hands, Mr. Chairman. It is a scheduling problem that
9 Mr. Armson has that he has asked me to raise with the
10 Board and I am doing that.

11 MR. COSMAN: Mr. Chairman, it might be
12 helpful to get an idea from counsel as to how much time
13 is going to be involved in the cross-examination of Mr.
14 Armson. Also, if you were to start Tuesday morning,
15 having regard to the problem, we would have two full
16 days next week, we may be completed Panel 9 depending
17 on the extent of the cross-examination.

18 THE CHAIRMAN: How long do you expect to
19 be with Mr. Armson in-chief?

20 MR. FREIDIN: Between a day and a quarter
21 and two days.

22 THE CHAIRMAN: So if you start tomorrow
23 afternoon you will finish off --

24 MR. FREIDIN: If I start tomorrow
25 afternoon, at the beginning of the afternoon, I think

1 there is a good chance of finishing by the time we shut
2 down on Thursday -- a chance.

3 THE CHAIRMAN: Okay. And then if we
4 commence cross-examination on the Tuesday, we would
5 have Tuesday and Wednesday of next week?

6 MR. FREIDIN: Yes. I have no idea how
7 long people anticipate cross-examining Mr. Armson and
8 we have to keep in mind that Mr. Armson is speaking to
9 that clearcut issue as well as dealing with the
10 evidence which is in the witness statement for panel
11 No. 9.

12 THE CHAIRMAN: So he would be unavailable
13 on the 27th?

14 MR. FREIDIN: If that's a Monday, yes.
15 Mr. Chairman, perhaps what we can do is --

16 THE CHAIRMAN: Just a moment. We are
17 scheduled to sit on the Friday, March 3rd, this was
18 going to be one of the five-day weeks.

19 From what you are saying, it may be
20 necessary to cut that back to four days by starting on
21 the Tuesday instead of the Monday, if the
22 cross-examination spills over from the week after next.

23 MR. FREIDIN: Right. Perhaps between now
24 and tomorrow I can speak to Mr. Armson again and see if
25 there is any way that we can have him here next Monday.

1 THE CHAIRMAN: Okay. Ms. Seaborn?

2 MS. SEABORN: Thank you, Mr. Chairman,
3 members of the Board. I have for filing a bundle of
4 interrogatories. These are interrogatories posed by
5 the Ministry of the Environment with respect to Panel 8
6 and just for the record, I will read the question
7 numbers and I would like to have the group of them
8 marked as an exhibit number.

9 It is Question 1(a), 1(b), Question 2,
10 Question 3, Question 5, Question 6, Question 7,
11 Question 10, Question 14, 16 and 17.

12 THE CHAIRMAN: Very well. They will all
13 be grouped as Exhibit 412.

14 ---EXHIBIT NO. 412: Interrogatories Question Nos.
15 1(a), 1(b), 2, 3, 5, 6, 7,
16 10, 14, 16 and 17 posed by the
Ministry of the Environment.

17 MS. SEABORN: Mr. Chairman, with respect
18 to the interrogatories, I have some submissions to make
19 on a couple of the questions and answers and a couple
20 of questions to ask Mr. Straight on one of the answers.
21 So I will just begin at Question 1(a).

22 MR. FREIDIN: Can they have copies?

23 MS. SEABORN: Mr. Straight won't require
24 the question. I can certainly give him one, if he
25 would like, but we will wait until we get to it and see

1 if he needs it.

2 If you look, Mr. Chairman, at Question
3 1(a), the last sentence, you will see that MNR has
4 asked in that interrogatory -- MOE has asked in this
5 interrogatory a very specific question, and the
6 question is:

7 "Would MNR please provide a list of all
8 Pre-existing obligations which limit or
9 direct the decisions required to be made
10 for timber management purposes?"

11 The response at the bottom of that first page, the
12 sentence begins:

13 "The pre-existing obligations that arise
14 from law or policy which provide
15 limitations or directions for these
16 levels of decision-making are identified
17 throughout MNR's evidence."

18 Now, Mr. Chairman, what I am asking for with respect to
19 this interrogatory is a supplementary response from
20 MNR. What we want - and I will just go through my
21 reasons why we want this - is we would like to see a
22 list of the significant pre-existing obligations that
23 are applicable across the area of the undertaking.

24 This terminology has come up throughout
25 the cross-examination of this panel. Now, we are not

1 asking for this on a management unit basis or anything
2 that detailed, all we are asking for is instead of
3 receiving a response to the effect that this
4 information can be gleaned by going through the
5 evidence, is a list in one place.

6 We think that a consolidated list is
7 important for the Board and that the Board should have
8 somewhere at the end of day to look for...

9 THE CHAIRMAN: Won't that encompass, Mr.
10 Seaborn, a list of all forest management agreements, a
11 list of all perhaps licences that have been granted,
12 a list of all accommodations made with tourist
13 operators such as tourist camps and things like that?

14 I mean, you could be talking of a list
15 that could go on for pages and pages and still not
16 encompass all of them across the area of the
17 undertaking.

18 MS. SEABORN: Well, no, because Mr.
19 Chairman what we are asking for is something -- what it
20 is does MNR rely on. I mean, they are the ones that
21 say in the evidence that pre-existing obligations are
22 something that has to be taken into account by the
23 resource manager when they are preparing a timber
24 management plan.

25 And it seems to us if that list cannot be

1 pinned down anywhere, then how can it be said that this
2 is significant for the --

3 THE CHAIRMAN: But doesn't it become
4 site-specific, when you are preparing a plan for a
5 specific area, a specific locale within the area of the
6 undertaking, isn't that the stage at which you look at
7 whether or not there is any pre-existing agreements
8 within that area.

9 MS. SEABORN: Well, but that's not the
10 information we are asking for. There may be
11 obligations, as you mentioned, cutting licences or
12 whatever that are specific to a geographical management
13 unit. What we are asking for are the obligations that
14 MNR feels arise across the area of the undertaking, the
15 geographical unit aside, no matter where you are within
16 the undertaking this is a pre-existing obligation.

17 It may be very simple, it may be
18 something as simple as you have to look at the Crown
19 Timber Act, the Environmental Assessment Act. These
20 are the examples that MNR gives in its witness
21 statement, and we want to know if there are any other
22 significant obligations that they are relying on.

23 THE CHAIRMAN: Okay. Well, if you want
24 to know what obligations the Ministry relies upon that
25 are universal in scope, i.e., they apply the across the

1 area of the undertaking, that's one thing, they may be
2 able to list those and there may not be that many of
3 them.

4 MS. SEABORN: I think, Mr. Chairman, that
5 that's all I am asking for. You will see that the
6 interrogatory response uses language such as: these
7 obligations include, or some examples are. All we
8 would like to so see -- it is a very specific question
9 for reason: Are these significant obligations that
10 would apply, as you say, across the area of the
11 undertaking.

12 I don't think it is a difficult task.

13 THE CHAIRMAN: Mr. Freidin, can you
14 advise us whether or not that's possible to produce?

15 MR. FREIDIN: I don't think that that's
16 reasonable to produce, Mr. Chairman, and I think that
17 anybody who is here who looked at the extent of the
18 interrogatories and the answers that we provided, we
19 have not in any way been evasive in answering
20 questions. We have not raised any objections to any
21 questions which have been raised.

22 I would just reiterate your comment, that
23 what pre-existing obligations are going to affect
24 timber management planning are going to be identified
25 on a management unit basis as they are identified and,

1 as you will see from page 85 of the witness statement
2 for Panel No. 8, in terms of pre-existing obligations,
3 those are identified as being provincial policy and
4 procedure, legislative policies, various management
5 planning documents.

6 In my submission -- my understanding is
7 that the task is not necessarily -- or is not as
8 perhaps easy and straightforward as is being suggested
9 by counsel for the Ministry of the Environment and I am
10 not too sure of what help or assistance it would be to
11 the Board if we provided or attempted to provide you
12 with some sort of a list of these things and which I
13 couldn't cone guarantee would be complete in any event.

14 THE CHAIRMAN: Of what value would it be
15 to the Board or to your client, Ms. Seaborn?

16 MS. SEABORN: Well, Mr. Chairman, before
17 we get into panel -- we are going to be getting into
18 specifics in Panel 15 obviously with timber management
19 planning. At page 73 of the evidence MNR raises this
20 issue. If you look at paragraph 6 of the witness
21 statement at page 73.

22 Now, at paragraph 6 on page 73 the first
23 sentence says:

24 "In every case where a resource manager
25 must make a decision it is necessary

1 to consider first whether there are
2 pre-existing obligations..." et cetera,
3 and then some examples are given.

4 Now, all we are asking for -- I accept
5 what Mr. Freidin says, is that it will be different for
6 management unit to management unit for specific
7 obligations, but there must be a class of obligations
8 that are referred to throughout the evidence that
9 somewhere can be put on a list so that at the end of
10 the day everyone knows where we are starting from.

11 THE CHAIRMAN: Well, we are starting
12 surely from whatever the law is and whatever
13 legislation is in effect that would be applicable,
14 would be a given to start with. And, I mean, a lot of
15 the legislation had been listed previously; has it not?

16 There is a list of the various acts and
17 statutes that are involved in the process of timber
18 management that I think was given at the outset of the
19 evidence.

20 MR. FREIDIN: Well, Mr. Chairman, could I
21 respond again?

22 I think we are going to end up at the end
23 of this environmental assessment, and I think one of
24 the things is going to be whether everything has to be
25 put into a list. There is no list which identifies

1 everything that managers must refer to in the
2 context of this particular paragraph. And I would
3 suggest to you that merely because it says in this
4 paragraph, it is necessary to consider first whether
5 there are pre-existing obligations, and to indicate
6 that perhaps that means there should be a list is, in
7 my view, not recognizing the fact that planning of any
8 sort, and resource management planning in particular,
9 is an iterative process. You don't necessarily follow
10 things; Step 1 and you're finished, Step 2 and you're
11 finished.

12 These pre-existing obligations arise,
13 become known through a variety of methods. And I
14 repeat the position that I took, that I think preparing
15 a list as suggested by the counsel for the Ministry of
16 the Environment is not going to be helpful.

17 MS. SEABORN: Well, Mr. Chairman, all I
18 can say is that this panel has been put forward as the
19 basis for which district staff and other members are
20 trained with respect to timber management planning.

21 I hadn't thought this was going to be a
22 major concern. I don't think I can add anything by
23 submissions as to why we think it would be useful at
24 the end of the day for the Board to have this, and I
25 will just leave it at that and the Board can direct me

1 as it desires.

2 ---Discussion off the record.

3 THE CHAIRMAN: Okay. Let's try and
4 approach it this way, Mr. Freidin. What would a forest
5 manager or district manager at the district level look
6 at in the first instance when he has a problem
7 involving a timber management plan when he sits down to
8 formulate a plan?

9 As a starting point, would he have some
10 kind of checklist to at least cover off the
11 legislation, the policy that might affect that timber
12 management plan?

13 MR. FREIDIN: No.

14 THE CHAIRMAN: He would not? So how does
15 he ensure that he isn't missing something?

16 MR. FREIDIN: I can't answer that
17 question, you will have to ask one of the witnesses.

18 THE CHAIRMAN: Mr. Straight, how would
19 you start off the process? When you are starting a
20 timber management plan and you want to make sure that
21 you cover off any applicable legislation, any
22 applicable policy and then even go on to other types of
23 agreements that might affect that particular plan, how
24 would you ensure that you wouldn't be missing
25 something?

1 MR. STRAIGHT: You are speaking to one
2 who has never actually done a timber management plan.

3 THE CHAIRMAN: Well, let's try it with
4 Mr. Scott, he has at least participated in the
5 embryonic stages of one.

6 MR. SCOTT: In my experience to say that
7 we can be absolutely sure that we don't miss anything,
8 I would say there is uncertainty there, that we can
9 never be absolutely sure.

10 However, given that we do have history
11 files on the management units and based on what we have
12 done in the past and operated on known legislation,
13 consulting with our internal experts and using those
14 factors of the decision-making arrow, consulting with
15 the public, creation of values maps, checking our files
16 for land use permits, checking our files for all
17 information we have on that management unit, we have a
18 history of information that I believe has been
19 presented to the Board, and that summation of
20 information is a starting point upon which, in my
21 experience, we enter a timber management planning.

22 As I tried to describe in my evidence,
23 certainly in my experience when I make decisions, not
24 in timber management planning but in resource
25 management, we set ourselves a framework to work in to

1 start with so we know our bounds. And I think through
2 history on the timber management unit we would have a
3 very good idea of what the bounds are and what those
4 pre-existing obligations are.

5 THE CHAIRMAN: Well, if you are sure of
6 what the bounds are and what the framework is because
7 of your past experience, why can that not be reduced to
8 writing; at least in the global sense, not to deal with
9 the timber management planning unit itself, things that
10 would be specific to a particular unit, but at least
11 the more global things, in terms of overall policy and
12 legislation?

13 MR. STRAIGHT: Mr. Chairman, if I could
14 maybe just continue for a moment. In prefacing my
15 remarks earlier I didn't want to mean that I wasn't
16 familiar with resource management planning in general,
17 but there are -- Mr. Scott mentioned I believe the
18 planning team, for example, and that is an extremely
19 important element in that you sit down with the lands
20 supervisor or someone representing lands, you sit down
21 with the fish and wildlife people.

22 The person from the lands organization
23 brings with him all of the existing obligations in
24 terms of land use permits, licences of occupation,
25 private property, those kinds of things or other

1 agreements which they may be aware of and the
2 legislation that is pertinent to the lands program.

3 The fish and wildlife similarly do it
4 with regard to their information base with regard to
5 their acts, their knowledge of the acts and regulations
6 that apply.

7 And every member on that planning team
8 including, for example, as well other ministries which
9 may be represented, like Ministry of Tourism and
10 Recreation in the planning team context, and other
11 ministries which may be involved through the actual
12 public participation process and having an opportunity
13 to review that, bring as well any of their concerns or
14 any obligations that they are aware of to the planning
15 process.

16 I think Dave also mentioned -- Mr. Scott
17 also mentioned the public process which as well feeds
18 information into it.

19 I think the issue becomes that every time
20 you generate a list, chances are you are going to end
21 up missing something. It may well be at some point in
22 time that an act like the Beach Protection Act, for
23 example - which would rarely ever come into play in
24 some specific timber management action, in some
25 specific unit - it may come to bear if that happens to

1 be a source of aggregate or a source of sand for some
2 specific purpose but, generally speaking, it is not one
3 that would be.

4 I think the reference in the
5 interrogatory generally speaking is, is that most of
6 those specific policies, if you will, the specific
7 legislation, if you will, will be addressed in various
8 places throughout the evidence that will be presented.
9 For example, I believe in terms of the Environmental
10 Protection Guidelines for Access Roads and Water
11 Crossings refers to the most pertinent legislation, for
12 example, that deals with that specific subject.

13 I think the problem lies in trying to
14 come up with a definitive list that will satisfy
15 everybody's purpose.

16 THE CHAIRMAN: Well, Ms. Seaborn, where
17 do we go from here? It is obvious they don't have a
18 list, it is also I think obvious that you could
19 probably pose that same type of question to Panel 15
20 wherein you are going to go through a process of
21 formulating, at least by way of an example, a timber
22 management plan. Presumably you are going to have on
23 that panel members of what would be a planning team who
24 could probably indicate, to some extent, how they would
25 address those concerns you raised.

1 MS. SEABORN: Well, Mr. Chairman, I won't
2 belabour this, but part of the reason for asking this
3 now was because we were not asking for the information
4 with respect to one particular management unit; what we
5 were asking for was what applies across the area of the
6 undertaking.

7 Now, I am hearing something a little
8 different from what Mr. Freidin told me with respect to
9 looking at the chart in the evidence and what Mr.
10 Straight has explained, and all I can say is that it
11 was our feeling that this was the appropriate panel to
12 ask for that type of information in advance of Panel 15
13 and, in our submission, at the end of the day we feel
14 it would be useful for the Board to have, on an
15 undertaking-wide basis, a list, and I don't think I can
16 add anything more than that.

17 I am surprised that it is difficult,
18 but --

19 THE CHAIRMAN: Well, it doesn't appear to
20 exist in that form at this time and maybe the
21 Ministry -- will the Ministry consider formulating such
22 a list?

23 I take it, Mr. Freidin, it does not exist
24 in that kind of form, based on Mr. Straight's answer?

25 MR. FREIDIN: That's correct.

1 THE CHAIRMAN: At this time.

2 MS. SEABORN: No, but --

3 MR. FREIDIN: We will attempt to make a
4 list, as long as it is understood that it might very
5 well not be all inclusive and I don't want to have the
6 list prepared and then somehow find my witnesses being
7 cross-examined that they didn't refer to this or that.
8 So, on that understanding, we will address the concern.

9 THE CHAIRMAN: Does that satisfy you, at
10 least to that extent?

11 MS. SEABORN: That is fine. Thank you,
12 Mr. Chairman.

13 Question 1(b). Mr. Chairman, the only
14 thing I wanted to do at this point was: We are filing
15 this question and answer. You will see that it is more
16 pertinent to FMAs than when we prepared the
17 interrogatories, it was unclear when FMAs would be
18 dealt with, and I just wanted to advise the Board that
19 may be coming back to this question and answer in Panel
20 15.

21 With respect to Question 2, just on the
22 fifth page of the bundle of material, you will see that
23 our interrogatory No. 2 has four parts to it (a), (b),
24 (c) and (d) and at the bottom there is a notation:
25 "Answer to follow."

1 We have had discussions with Mr. Freidin
2 about this question and we understand that an answer is
3 coming and that is fine. We just wanted to file the
4 question at this time and when the answer is ready,
5 which we would like in advance of Panel 10 to have that
6 answer filed to make the record complete.

7 There is one change in wording under part
8 (b) and I just wanted to read out the change for the
9 record. The fourth line down in part (b) after the
10 words: "apply each guideline",
11 if you could strike out the remainder of that sentence
12 and instead insert: "apply each guideline and identify
13 the provisions which specifically set out those basic
14 information requirements."

15 And that is just for the record at this
16 time, Mr. Chairman, and we will wait for the answer.

17 THE CHAIRMAN: We might as well change it
18 on our copies now.

19 MS. SEABORN: Sure.

20 THE CHAIRMAN: What is it again: "...and
21 identify the...?"

22 MS. SEABORN: "...and identify the
23 provisions which specifically set out those basic
24 information requirements."

25 THE CHAIRMAN: So the change is in the

1 word basic?

2 MS. SEABORN: Yes.

3 THE CHAIRMAN: Now, I have to rub out my
4 line that I crossed out. Okay.

5 MS. SEABORN: With respect to our
6 interrogatory No. 3, perhaps just as a point of
7 reference, if the Board could turn to page 74 of the
8 evidence, paragraph 9(c), you will see on page 74 of
9 the witness statement paragraph (c) states:

10 "The application of the guidelines is
11 provincially coordinated and audited."
12 Now, you will see our interrogatory was quite specific
13 and what we asked for were audit results to date with
14 respect to application of the guidelines and MNR's
15 response was that:

16 "The audit program and public
17 documentation will be presented in Panel
18 16."

19 We have some difficulty with this response because, Mr.
20 Chairman, we are asking specifically for any audit
21 results and my understanding - and what I have looked
22 at of Panel 16 - is that it is a description of the
23 audit function and the monitoring program and what we
24 are asking for is specific data, if it exists.

25 It may or it may not exist, but that is

1 the source where the interrogatory came from, it was
2 the statement in evidence at page 74 that prompted the
3 interrogatory and, again, we would ask that MNR provide
4 us with any of the audit results in advance of Panel
5 16.

6 MR. FREIDIN: No problem. I agree with
7 your comments and we will respond to that question.

8 MS. SEABORN: Thank you, Mr. Freidin.

9 THE CHAIRMAN: Thank you.

10 MS. SEABORN: Questions 5 and 6 and the
11 responses to those questions, we are filing for the
12 record at this time. With respect to Question 7, I
13 would like to ask Mr. Straight a couple of questions
14 and I think you are right, Mr. Freidin, I should give
15 him the question.

16 CROSS-EXAMINATION BY MS. SEABORN:

17 Q. Mr. Straight, if you could just
18 review Question 7(b) in particular. And Question 7(b)
19 is:

20 "If present in the management unit, is
21 the application of the resource
22 environmental manual manatory in
23 connection with that resource value?"
24 And it is just really a question of clarification.

25 Your response to Question 7(b) sends us

1 back to the evidence and, in particular, directs us to
2 page 109. Now, the second paragraph on page 109 says
3 that:

4 "Application of these manuals is
5 discretionary upon values being
6 identified, except in the case of
7 endangered species."

8 And I just wanted to be clear with respect to the
9 application of these resource environmental manuals.
10 Does your response mean that if a resource value is
11 identified within a management unit, then at that point
12 the application of the resource manual is still
13 discretionary?

14 MR. STRAIGHT: A. The primary rationale
15 for the wording as you see there is to characterize the
16 use of provincial guidelines relative to the use of
17 resource manuals. We would still generally expect to
18 see district managers and district staff refer to those
19 resource manuals in attempting to protect or minimize
20 impact on one of the resource values there.

21 Q. But -- so if it is a resource value
22 and it doesn't fall under the endangered species list
23 though, technically just to get the jargon straight in
24 my mind, it is a discretionary use of that manual
25 versus a mandatory use of a provincial guideline?

1 A. That's correct.

2 Q. Okay. Now, page 107 of the evidence,
3 Mr. Straight, lists these 14 resource and environmental
4 manuals that we have heard about during the past two
5 weeks. Do you have those in front of you?

6 A. Yes, I do.

7 Q. I was just going through them quickly
8 and it appeared to me, out of 14 of those 4 of them
9 apply to endangered species - and that would be the
10 first three: bald eagle, golden eagle and the falcon
11 habitat management guidelines, and then over the next
12 page the warblers guidelines as well.

13 Those would be the four endangered
14 species?

15 A. I don't believe warblers are an
16 endangered species.

17 Q. So that wouldn't be under the
18 endangered species list?

19 A. No, not as a general class.

20 Q. Okay. So out of those 14, then three
21 apply to the endangered species?

22 A. Yes. I believe there is a Kirkland
23 warbler which may be on the endangered species list,
24 that may be what you are referring to. But I believe
25 the manual refers to warblers in general of which there

1 is a number of different species.

2 Q. And on that list where the guidelines
3 are marked draft, have those been issued to resource
4 managers in the field, if they are marked draft?

5 A. My understanding is that they have.

6 Q. Mr. Straight, you touched a moment
7 ago on the provincial guidelines and, using the
8 terminology in the evidence, the moose, fish and tourism
9 guidelines are considered mandatory; correct?

10 A. Their use is considered mandatory,
11 correct.

12 Q. And the five silvicultural guides are
13 also mandatory; are they not?

14 A. That's correct, in the same context.

15 Q. And with respect to the construction
16 and operational manuals, the prescribed burn, aerial
17 spray manuals, they are both mandatory; aren't they?

18 A. Yes, that's correct.

19 Q. And the environmental guidelines for
20 access roads, those would be mandatory as well; would
21 they not?

22 A. That is proposed to be mandatory,
23 that is correct.

24 Q. I wasn't clear from reading the
25 evidence about the resource access roads policy and

1 implementation strategies. Is that a mandatory
2 construction manual?

3 A. That is the resource access roads
4 policy and implementation strategies and guidelines?

5 Q. Yes.

6 A. To the degree that its use is
7 characterized, it defines MNR policies and, in the
8 sense that they are policies, they should be followed.

9 Q. Well, does it fall under the same
10 categories as the prescribed burn, the aerial spray,
11 the other construction manuals?

12 A. The prescribed burn, the aerial
13 spraying manuals specifically deal with operational
14 techniques within the Ministry and how to plan and
15 carry them out, as well as meeting other general
16 characteristics of actually utilizing those operational
17 techniques.

18 The resource access roads policy and
19 implementation strategies and guidelines deal with, to
20 some degree, the issue of general policies relative to
21 road -- to access roads as well as listing things like
22 how to essentially keep track of expenditures,
23 administrative sort of concerns as well. It tends to
24 be both administrative and, if you will, some general
25 planning implications.

1 But, by and large, they generally relate
2 in many ways to much the same sort of thing.

3 Q. Well, I am just really asking a very
4 simple question. In terms of reading the evidence, you
5 have these implementation manuals set out in a very
6 specific order and you have them categorized, and it
7 appeared to me when we get to the section on
8 construction and operational manuals that the resource
9 access roads policy and the construction and mitigation
10 handbook for MNR Class EA projects are treated somewhat
11 differently than the other three construction and
12 operational manuals. That is all I am asking.

13 A. It was based -- the roads were
14 separated in the sense that there was an evolution, if
15 you will, of direction with regard to access roads
16 particularly. They were the ones that we had when we
17 originally -- on the books, essentially when we
18 originally submitted the Class EA, we had recognized
19 that there was a need to develop a more comprehensive
20 set of guidelines which you will be hearing about in
21 future panels and that was the reason for the specific
22 segregation.

23 Q. That is helpful, thank you.

24 MS. SEABORN: With respect to, Mr.
25 Chairman, Question 10. At this time we are filing the

1 question and answer. I believe it was referred to
2 earlier on in this panel by another party and there was
3 about an inch of material that came with the answer,
4 and rather than filing that material at this time, we
5 may be referring to some of that information when we
6 get to Panel 15.

7 So I just wanted to advise Mr. Freidin
8 that was the reason for not filing his whole answer was
9 because of the amount of material involved and I am not
10 sure if it is all going to be helpful at the end of the
11 day.

12 MR. FREIDIN: Very well, thank you.

13 MS. SEABORN: With respect to the
14 remaining Questions 14, 16 and 17. Again, for the
15 record, we would like to file both the MOE questions
16 and answers.

17 Thank you.

18 THE CHAIRMAN: Thank you.

19 MS. SEABORN: Mr. Chairman, that
20 completes my submissions on the interrogatories and I
21 think it would be prudent if I stopped at this point
22 and completed the cross-examination tomorrow morning.

23 THE CHAIRMAN: Very well.

24 Okay. Ladies and gentlemen, we are going
25 to start tomorrow at 9:00 a.m. and we will commence

1 with Ms. Seaborn's substantive cross-examination at
2 that time.

3 Thank you.

4 ---Whereupon the hearing adjourned at 5:50 p.m., to be
5 reconvened on Tuesday, February 14th, 1989,
6 commencing at
7 9:00 a.m.

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